

1 of 5

with our food but neither of us ate anything.

For an unusually long time, I recall, the information coming from the television set was remarkably inconclusive with regard to specific details. Oddly enough, despite the enormous crowd of onlookers at the assassination scene in Dallas, the crisp voices coming to us electronically were providing no real information at all about the source of the fatal shooting. The continuing confusion coming to us from Dallas remained spellbinding, made all the more so by snippets of added color commentary. Nevertheless, for at least two hours the facts revealed about who the rifleman or riflemen had been added up to exactly zero.

However, we were hypnotized, despite the almost unending trivia, by the magic of the communication spectacle occurring in front of us. Hardly anyone left the restaurant that afternoon. The business and professional men who had come there for lunch cancelled their appointments. Frank and I made our calls to the office and returned to the television set.

Everyone then -- and for a long time afterwards -- was too stunned to be aware of the inordinately long time which had passed without the slightest hint having been given concerning the identity of Kennedy's killer or killers, least of all about any early arrests having been made. We were more concerned, perhaps, with what had happened to him and with our own hurt.

There was no perceptible reason for the unexplained delay in the relay of any results from the investigation thus far. It was not as if one of the commentators had said, for

example, that the assassins appeared to have escaped. That would have been understandable.

It had been made clear that the normal Secret Service operation in Dallas had been reinforced by additional agents from Washington, D.C. and most of the Dallas F.B.I. most certainly was out in force, not to mention the Dallas police. It simply did not make sense that for more than two hours there was no mention of the moderately interesting question as to who was believed to have shot the President.

Much later it was learned that minutes following the assassination, three men had been arrested after running from the grassy knoll -- the area directly in front of the President, from which most of the members of the crowd heard the shooting -- to the railroad yard in back. Those men were marched under shotgun arrest to the Sheriff's office on Houston Street. Their arrest, along with the shotguns in the hands of the police escort, was caught in photographs taken by three news photographers. Yet they were never mugged nor fingerprinted by the Dallas authorities. Not even their names were taken before their quiet release.\*

\* In the case of this and subsequent references to sources, authorities or citations, the applicable information will be found in the Chapter Notes at the rear of the book. In this instance, for example, information authenticating the fact of the early arrest of these men will be found in the Notes for Chapter One, therein described after the reference to Page 3.

Henceforth, asterisks will be employed only with regard to minor notes for purposes of clarification at the bottom of the page. In order to facilitate reading, footnote numbers will not be used following sentences or paragraphs.

*Zack =  
in line to  
drop walking  
Man here...*

*JH W/M drops, this for gun to  
p. 3 - + comment  
with L/O's arrest*

One cannot help but wonder how it was possible -- during the two hours in which no information at all was forthcoming about the source of the shooting -- for the Secret Service and the F.B.I. to fail to learn of this astonishing disappearance into thin air of the men arrested by police brandishing shotguns. Surely the three newspaper editors must have called federal authorities upon seeing the photographs. What could they have been told which caused them not even to publish the pictures? The failure to publish news photographs of such incredible significance fairly may be compared with failure to publish photographs -- had they been available -- of the Titanic in the process of sinking.

The Warren Commission, in the following year, totally would avoid acknowledging the arrest of anyone, with or without shotguns, at the assassination scene. The House Sub-Committee on Assassinations, sixteen years later, would concede the occurrence of the arrest of these men but would treat it as an investigative oversight of no great significance.

Then, well into the middle of the afternoon the arrest of Lee Oswald suddenly was announced. Approximately fifteen Dallas police officers had succeeded in catching the official assassin while he was seated in a movie theatre a considerable distance from the assassination scene. \* The delayed arrest burst like a bomb on the television screen and the long silence in Tujague's restaurant ended. You could feel -- and hear -- the sudden explosion of fury, the outburst of hate against this unknown young man named Lee Harvey Oswald.

FIRST  
F.N.  
= LO's  
Sumat

\* FN explanation - from  
p. 3

D. Curran  
re. Dainlog

CAVEAT

Consider  
local

3

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Martin obviously was nervous about his unexpected summons when he arrived. I had some coffee with him to give him a chance to relax and to let him be re-assured that he was not facing an unfriendly confrontation.

(At this point I must provide a caveat. In order to provide the reader with a full sense of the ambience of the period I will, hereafter, be recounting critical conversations as I recall them. However, I do not want to communicate -- with regard to precise words and phrases -- an impression of accuracy which is not possible to provide after the passage of 20 years. On the other hand, the thrust of the conversations which I will describe I remember as well as if they occurred yesterday. Therefore, the reader should not interpret my account of the words spoken as anything but my present general recollection of them. On the other hand, I can say with confidence that the fact of their occurrence and their import are here recited with accuracy.\*)

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\* Where individuals referred to are still alive and available, I have met with them and validated my recollection as described in the manuscript for this book. These persons include: former chief investigator Louis Ivon, former executive assistant D.A. (and later Magistrate) Andrew Sciambra, former executive assistant D.A. (and later chief assistant and subsequently judge) James Alcock and former supervisory assistant D.A. D'Alton Williams.

skating trip he had no adequate reply.

Later we would learn that at the skating rink he had never put on ice skates but had spent all of his time at a pay telephone, making and receiving phone calls. We also would learn that subsequently he would drive down to Galveston, Texas, where he would be when Jack Ruby called Galveston the night before he shot and killed Lee Oswald. Needless to say, these details hardly were forthcoming from Ferrie when I questioned him.

Nevertheless, after a number of other responses which appeared to me to be not merely inadequate but even evasive, I ordered my investigators to take him to the First District Police Station, there to be booked and held in jail for questioning by the F.B.I.

From his answers to my questioning, I had not found anything which directly connected Ferrie with the assassination but I concluded that further investigation of this odd individual and his curiously timed junket very plainly was necessary. It had been a strange trip by a strange man at a particularly strange time. And his accounting for the trip had been particularly unconvincing. It was clear to me that he had not expected to be seriously questioned about details of his brief expedition and, whatever its purpose had been, had not had time to put together a believable cover story.

The F.B.I. released Ferrie with surprising swiftness. Moreover the Special Agent in Charge of the local office issued a statement to the media in which he said that the arrest of Mr. Ferrie had not been the F.B.I.'s idea but had been that of the

District Attorney -- an unprecedented comment for one law enforcement official to make with regard to another. Ferrie not only had been set free but released with an official exoneration.

I might add, however, in spite of my surprise at the local Bureau chief's pronounced rejection of our efforts in catching David Ferrie, I had the highest regard for that organization. Before committing myself to the law profession I had served briefly as an F.B.I. Agent, in Seattle and Tacoma, and had been very impressed by its organization and efficiency. This experience undoubtedly was an additional reason why it initially was completely unacceptable to me that the United States Government would lie in any way about the assassination.

Consequently, I assumed that the Bureau completely had examined Ferrie's trip in finding it to be of no moment. I turned my attention back to the prosecution of burglaries, armed robberies, murders and other local crimes.

I felt comfortable about leaving the matter thenceforth in the hands of the federal government. My office had begun an inquiry into Oswald's New Orleans associations but the F.B.I., in effect, had made it clear that we merely were spinning our wheels. I was confident that the government's own investigation into the President's murder would be exhaustive.

My trust in the government probably was typical of most Americans in 1963. However, it was particularly strong in my

case because of my background. My father had been an attorney as had his father before him. As a third generation lawyer, I had acquired a built-in regard for the law. I remain aware today of the influence upon me, in this respect, of my two colorful grandfathers.

Thomas Jefferson Garrison, my paternal grandfather, had been general counsel of the Northwestern Railway, headquartered in Chicago. One of the members of his legal staff -- a young lawyer named Clarence Darrow -- had acquired my grandfather's displeasure by his inclination to rebel against some of the more rigid strictures of the law. I have been told that he was vastly relieved (and I am sure that Darrow was, as well) when Darrow resigned from the railroad's legal staff to represent Eugene Debs. Darrow, as is well known, went on to become one of America's greatest trial attorneys. Ironically, as much as I admired my grandfather, I acquired a high regard for Darrow's unparalleled ability as a trial attorney as well as his great passion for justice. For this reason (and probably, as well, because of his relationship with my grandfather) one of my sons is named Darrow.

My maternal grandfather, William Oliver Robinson, was a most patriotic, as well as a most colorful man. He came from an unusually tall family, of predominantly Irish descent, being seven feet, three inches in height (his two brothers were each seven feet tall). He had no patience for fools nor for anyone who did not believe that ours was the greatest country in the world. Tall as he was (being full grown at the turn of the

There continued to be no mention on the television -- undoubtedly because the newscasters knew nothing about it -- of the arrest made of the three men at the assassination scene more than two hours earlier.

It would be long after the F.B.I. investigation and the Warren Commission formally had confirmed Oswald's sole guilt in Kennedy's killer that critics of the government's explanation of the President's elimination would discover the photographs taken of the unpublicized shotgun arrest of the men captured behind the grassy knoll within moments of the murder.

Now, the situation in Dallas escalated from one in which there had been a scarcity of significant news to one in which the incoming details were cascading out of the television set, with bulletins about Lee Oswald tumbling over each other in growing profusion and richness of detail.

By the following day, a Saturday, the name of Lee Harvey Oswald had been repeated so relentlessly on every form of media that overnight it had become a household name throughout the world. Similarly, his resume' was proliferating almost as swiftly and, increasingly, it was coming to include -- of particular interest to me -- more and more about his stay in New Orleans through the summer preceding the assassination.

By Sunday morning I had arranged for a special meeting of the key members of my staff to meet at the office that afternoon. The New Orleans connection meant that, however peripheral our effort might turn out to be, we had to inquire into Lee Oswald's possible associations in our jurisdiction

during the preceding summer.

Back on Friday afternoon, while Frank Klein and I were transfixed in front of the television set at Tujague's, a most unusual incident occurred at Guy Banister's office about twelve blocks away, on the other side of Canal Street. At least, it was unusual for Banister, a former Special Agent in Charge of the Chicago office of the F.B.I. and a man who had a lifetime reputation as a rigid exponent of law and order. As the sun was setting on the long afternoon of television coverage of the assassination in Dallas, the former F.B.I. chief beat Jack Martin -- an associate of his -- so badly with his pistol that the police had to cart the battered victim off to a hospital.

Banister, although he enjoyed an occasional martini at lunch at the International House, had never been known to drink to any serious extent during the day. He was an austere, highly composed individual for whom the pistol whipping of another man was exceedingly out of character. However, the fact of his explosively violent assault on Martin on the late afternoon of the assassination was memorialized permanently in the police report concerning the incident.\*

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\*New Orleans Police Department report number K-12634-63, dated November 22nd, 1963.

☐ Brief FN  
in detail  
of the PIR

The ex-F.B.I. man, it developed, had made a noble effort to polish off all of the liquor in the Katzenjammer Bar in the 500 block of Camp Street. He had made his way back to his office where he became embroiled in a heated argument with Martin, a sometime private detective and hanger-on at the former's office.

The imbroglio erupted as the result of an injudicious observation by Martin, who also had been imbibing rather freely. Martin had been so rash as to inform Banister, during the course of their quarrel, that he had not forgotten certain unusual things which had been happening at the office during the summer.

This was not just another drunken donnybrook between two men which, at the end of the shouting, was over and done with. It would have a lasting effect, quite disproportionate in its enormity to the incident itself. Where Banister had been out of character in beating Martin, the latter -- hurting not only in his head but in his pride -- abandoned his customary unassertive character, his long playing role as the feckless, but unassertive runner of errands and a reaction which Banister could not have anticipated seems to have been triggered within the mousy exterior of the Jack Martin of old.

It should be observed that a .357 magnum -- such as the weapon with which Banister massaged Martin's head -- is not an ordinary hand gun. It is extraordinarily heavy in order to support its increased muzzle velocity. The brief altercation had converted Martin, in a matter of a minute or two, into a hospital case and a police patrol car carted him off to Charity Hospital on Tulane Avenue. It also had an even more dynamic result. It

caused him to speak out with regard to subject matter concerning which he otherwise predictably would have remained silent forever.

Out of this altercation would grow the initial lead -- a mere fragment, yet a lead nonetheless -- which within days would draw my office into the aftermath of President Kennedy's assassination. Three years later -- after my belated discovery of the many things to which Martin had been a witness -- it would serve as the fountainhead of a steady stream of information about some of the men around Lee Oswald during his summer in the city. Of course, I had no knowledge whatever of the altercation when it occurred nor for a considerable time thereafter.

While I knew Guy Banister fairly well and also had a friendly relationship with Martin, of whom I genuinely was fond, it would be several days before the first consequence of Martin's beating -- which would have the effect of leading us to the arrest of David Ferrie -- occurred. It would be considerably later, however, after I belatedly stopped accepting the official government story of Kennedy's murder that I acquired a full appreciation of the meaning of this violent encounter.

Like a tiny seed, the planting of which was unnoticed at the time, that unusual and explosive act by Guy Banister ultimately would lead to the first genuine investigation of President Kennedy's murder. Stung by the pain and outrage of his injury, Jack Martin within a day or so confided to a friend his murky suspicion that David Ferrie, an associate of Guy Banister's as well as habitue of his office, had driven to Dallas on the day of the assassination to serve as the "getaway" pilot for the men

involved in the assassination.\*

On Sunday afternoon we gathered in my office -- senior assistant District Attorneys and investigators -- two days after President Kennedy's murder. Such a weekend meeting -- whenever a crime had occurred on the national scene which had leads trailing to New Orleans -- had become a custom with my staff. Although I personally had no argument with the official lonely assassin scenario so rapidly taking shape through the media, I was not free to ignore the fact of Lee Harvey Oswald's unexplained three months in the city preceding the assassination.

It was in the course of checking out all possible associates of Oswald's in the city that we came across his having been seen during the summer with a man named David Ferrie. A routine review of our files revealed a police report based upon a complaint against Ferrie. (The complaint, a misdemeanor, had been refused for prosecution because the incident involved not Orleans Parish but a neighboring parish). Now I had my people on the telephones to develop the specifics of a possible Oswald-Ferrie relationship.

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nt word!  
\*At the time of this first revelation from Jack Martin, who was deathly afraid of Guy Banister, the latter was still alive. It would not be until three full years later that Martin would reveal -- in a series of lengthy conversations with me -- the awesome story of the activity at Banister's office, and the individuals involved, during the summer of 1963. See Chapter 3, THE MAN UNDER THE OAK TREE.

FN re #1504  
and that lot of  
supplies for  
enclosure

Another long shot unexpectedly came through. We found a witness who remembered Lee Oswald having been a member of the Civil Air Patrol, as a youth, when Ferrie was the Captain of the unit. Later evidence would be found which would corroborate this.

I had met Dave Ferrie once. The encounter had been casual but unforgettable. Shortly after my election as District Attorney I had been walking across Carondelet Street, near Canal. I was preoccupied with one thought or another but, half conscious that the waiting traffic was about to head my way, was beginning to quicken my step. At that moment I was stopped cold by a man who grabbed me by both arms.

The face grinning ferociously at me was like a ghoulish Halloween mask. The eyebrows plainly were greasepaint, one noticeably higher than the other. A scruffy, reddish homemade wig hung askew on his head as he fixed me with his eyes. The traffic was bearing down on us as he gripped me and I hardly could hear him amidst the din of the horns.

I remembered that he was shouting congratulations regarding my recent election. As I dodged a car, at last escaping his clutch, I recall his yelling that he had become a private investigator. This brief street encounter would have been sometime in late 1962, the preceding year.

This recollection caused others to stir. His reputation, which had preceded our meeting, as an adventurer and pilot came to mind. Because I had been a pilot myself during World War II, the legend that he could get a plane in and out of the smallest

of fields had stuck in my mind. In my recollections of Ferrie also were other fragments which had not yet fallen into place -- with connotations of Cuban anti-Castrol activity, the abortive 1961 Bay of Pigs invasion of Cuba and Ferrie's frequent speeches to veterans' groups. It was my impression that his speeches invariably were about patriotism and anti-communism. The name of David Ferrie was well known in New Orleans.

Then one of my assistant D.A.'s, Herman Kohlman, learned about Ferrie's precipitate departure for Texas just 48 hours before -- on the very day of the assassination. The source, whom Kohlman verified as thoroughly reliable, was the man to whom Jack Martin had talked ~~to~~ after his pistol whipping by Guy Banister. Martin apparently had relieved himself of some of his accumulated aggression by telling him of his dark suspicions about Ferrie's sudden Texas trip (although he had given him no other information, such as Ferrie's connection with Guy Banister).

In spite of the fact that it had resulted in a refusal of charges, the information in the police report concerning Ferrie led us to his present address on Louisiana Avenue Parkway. I immediately sent off Frank Klein, my chief assistant, with a team of investigators to the place. In Ferrie's unkempt rabbit hutch of an apartment they found a mixture of Army rifles, ammunition clips, military canteens, military web equipment and, on the wall, a large map of Cuba. Also a part of the general profusion were two young men awaiting Ferrie's return from Texas. They said that Ferrie had headed there in his car early Friday afternoon -- approximately an hour after the assassination.

*D.D. is it when that I  
do not yet know about  
the first subject, Brown / Mark  
(as of the Sunday) 12*

The timing which they described later was confirmed to us by other witnesses we found who had seen Ferrie in New Orleans as late as midday on November 22nd. This meant that Jack Martin's belief that Ferrie had been a "get-away" pilot had to be discarded but by no means did it mean that -- considering the curious timing and geographical factors -- we could regard him as clear of any possible connection with the assassination.

I left a round-the-clock stakeout at his apartment to await his return. On Monday morning Ferrie appeared at my office for questioning, his appearance every bit as disconcerting as when I had last seen him on Carondelet Street back in 1962. He denied ever having known Lee Oswald but admitted having departed in his car for Houston early Friday afternoon.

Somewhat to my surprise, considering his exuberant confidence at our last confrontation, I found him distinctly ill at ease and nervous. Even more surprising, the more he sought to explain his sudden need to drive to Texas and what he did there the less his story appeared to hold together. I had no idea at the time what his problem was -- because my questioning had brought out nothing which seemed to connect with the assassination in Dallas -- but I found his responses totally unacceptable.

For example, when I asked him the reason for his departure for Texas early Friday afternoon (an hour following the assassination) he responded that he had driven to Houston to go ice skating. When I then asked him why he had chosen one of the heaviest thunderstorms in many years as the occasion for his ice

9  
Police Report re Paul  
Marty -  
Used to get Mark  
to talk about it  
(How when?)

After having coffee with Jack Martin, I pushed the police report across the desk and let him look at it. I asked him to tell me why Banister had pistol whipped him. The police report's description of his beating seems to have sent the adrenalin flooding through him.\* He looked up, his face flushed with injustice remembered.

"He accused me of going through his personal files. That was a goddamned lie. When he came up with that I blew up and told him what I'd seen there at the office all summer. That's when he hit me with that big magnum of his."

"And what had you seen at Banister's office all summer?"

Again Martin's response was unexpectedly direct. It was as if he had been waiting three years for someone he trusted to listen to him, as if what he had been wanting to say for so long had fallen on deaf ears.

"Lee Oswald coming in and going out. And Dave Ferrie running around like a crazy man. I watched the whole damned circus."

"What was Guy Banister doing while all this was going on?"

"Hell, he was the one running the circus."

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\* Martin's conversation with me also is discussed to some extent later in Chapter 7.

up to look like a left wing radical -- and with the cold war paranoia which afflicts this country that is not a difficult thing to do.

Recalling Banister's long F.B.I. association also reminded me of the occasion of <sup>Oswald's</sup> his arrest on Canal Street, the result of a supposed disturbance with some Cubans. Upon his arrival at the police station he immediately asked to see an F.B.I. agent, whereupon Special Agent John Quigley came over to the station from the Bureau office. Oswald was separated from the other arrested men and brought into a private room where he and Quigley talked. Later Agent Quigley burned the notes which he had taken during this interview.\* After Oswald moved back to Dallas, the Bureau transferred Special Agent Quigley to Dallas.

It was during this period, when he was operating out of Guy Banister's place, that someone arranged for Lee Oswald to participate in a radio debate on station WDSU. The subject chosen for the debate was, essentially, capitalism versus communism. Oswald, debating a man who had made a profession out of his anti-communism, represented the left wing position and duly represented himself on the taped program as a Marxist. After Kennedy's assassination, and less than a week after he in turn was murdered, copies of the tape were sent to members of

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\*Note: This is contrary to standard Bureau procedure. Customarily, such notes are placed in the office file, along with the report of the occasion, to be used as an aid to the recollection of memory for any possible later legal proceeding.

Congress as proof positive that a communist had killed the President.

On the occasion of this weekend visit I had not yet learned that during the summer of 1963, David Ferrie -- whom we had arrested on the Monday after Kennedy's murder -- had been working out of Guy Banister's office when he made his strangely timed drive into Texas. Nor had I yet learned of Banister's pistol-whipping of Martin nor even that Martin had been working at Banister's office (handling Banister's occasional private detective business for him while Banister, as grand master of the Anti-Communist League of the Carribean or whatever, occupied himself with his antileftist and paramilitary preoccupations).

Later, after I had become aware of these things, I would never pass that small building without marveling at the frenzy of activity in which its Summer of 1963 residents were engaged on assassination day. One of them (Ferrie) took off for Texas in the middle of the day. A second (Oswald) was arrested in Dallas in the middle of the afternoon. And along about sundown, the third (Banister) put the fourth (Martin) in the hospital by beating him with his gun.

With regard to Guy Banister himself, I remembered that on several occasions he had mentioned his days during World War II when he had served in the Office of Naval Intelligence. I looked across Lafayette Street, where the huge U.S. Post Office Building loomed. Occupying an entire city block, it was a majestic bulding, timeless then and timeless today in contrast to

its decayed and weatherbeaten surroundings. Upstairs was located the New Orleans headquarters of Naval Intelligence, Banister's wartime affiliate.\* The building also was the location of the headquarters for the New Orleans Secret Service operation.\*\*

I walked down Lafayette Street, toward the Mississippi River, to look at two other addresses on the 600 block of Magazine Street which I had jotted down from my reading about Lee Oswald's movements. One was the Reily Coffee Company, where Oswald had been listed as an employee in 1963. This had been shortly before his famous emergence on the city streets handing out the circulars calling for Fair Play for Fidel Castro of Cuba.

You would have to be practically a stranger to the city not to know that William Reily, the coffee company's president, for years had been engaged in actively supporting -- along with Guy Banister -- the anti-Castro movement.

Looking at the coffee company, I recalled the affidavit from its vice president in which Oswald had been described as having been discharged from the company because of his failure to work diligently. I knew the vice-president who had sworn out the affidavit as I happened to have known Guy Banister, Guy Johnson

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\*This I had happened to have learned earlier from Guy Johnson, a long time prosecutor in the District Attorney's office and a friend of mine, who -- having been active in Naval Intelligence in World War II and subsequently in the O.N.I. Reserves -- went there frequently.

\*\*I learned this from the New Orleans telephone directory after I had returned home.

and David Ferrie. He and I were both in the same chapter of the Society of Special Agents of the F.B.I.

While it was true enough that by 1963 this man had become vice-president of the coffee company, he had not been a career man in the coffee business. Rather, he had been, like Banister, a career agent most of his adult life in the Federal Bureau of Investigation. Subsequently, he had become a vice-president of the Standard Fruit Company, which had been in the business of importing bananas from Central and South America. By 1963, he had moved into the business of importing coffee from the same area. I had no way of knowing whether or not it applied to him specifically but I long had known that it was common practice for our intelligence machinery to use the banana and coffee companies -- all engaged in business down in Central and South America -- as covers for its agents engaged in the acquisition of information and other espionage functions. By the same token, I had long known that it was a practice of an agency in the Intelligence Community (such as the C.I.A.) to take aboard a man ~~returning~~ from another of the agencies (such as the F.B.I.). ✓

As I looked at the small coffee company building I wondered whether Lee Oswald actually had worked there daily. I wondered whether he really had labored as a "second oiler" as his papers had shown or whether the company simply had been his nesting place until it was time for him to go to work out of Guy Banister's location at his ill-fated assignment as an agent.

provacateur.\*

The other building, next door to the coffee company, was the Crescent City Garage. Here, according to its operator, Adrian Alba, Lee Oswald had spent a great deal of time when it appeared to Alba that he should have been working at Reily's.\*\* Alba described Oswald's interest in the rifle magazines which he had there. It is not too surprising that there were plenty of gun magazines at the place for Oswald to thumb through.

This garage where Oswald spent his apparently substantial free time while employed by the Reily Company was not exactly a Young Socialists Meeting Hall. Very much to the contrary, for years it had been the official parking lot for the local headquarters for the Federal Bureau of Investigation. Now, with the Bureau just recently having moved over to new offices on Loyola Avenue, the Crescent City Garage still was the nearest

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\*Later I would send a member of my staff over to the Reily Company to interview everyone at the place who had been associated in any way with Oswald in his work there. We learned that in every instance each person who had been connected with Lee Oswald had departed from the coffee company in less than two weeks following his departure. In every case the individual had been given a new job, paying considerably more money, at the National Aeronautical and Space Administration located at Michoud, out on the eastern edge of the city.

\*\*Later, it should be observed, Alba would testify to more than Oswald's visits to the garage. He testified in 1978 before the House Sub-Committee on Assassinations that he had "often seen Oswald in Mancuso's Restaurant on the first floor of 544 Camp Street." (Emphasis supplied). Supra, Committee Report, page 146. The House Committee would concede that David Ferrie and Guy Banister also were frequent customers at Mancuso's. (Emphasis supplied). Ibid.

parking garage to the Office of Naval Intelligence and the Secret Service, right across the street from it. Furthermore, the Central Intelligence Agency (which was located in the same building as the F.B.I.'s previous headquarters had been) remained but a few blocks away.

Every F.B.I. agent spends at least one full day a month shooting guns -- not just their standard issue .38 caliber Smith & Wessons but rifles, machine guns and shotguns, as well. It is a safe guess that the Secret Service does just as much practice with guns. As the nearest thing in town to being an official garage for the Intelligence Community the Crescent City Garage probably had more gun magazines laying around than anywhere else in the city.

I then walked back past the Newman Building, through the pigeons in Lafayette Square, to St. Charles Avenue. I looked up the street several blocks away. There in the 300 block sat the dark grey office building known as the Masonic Temple.

As District Attorney I knew that, until recently, it had contained the offices of the New Orleans headquarters of both the C.I.A. and the F.B.I. With the recent move of the latter to the new Federal Building the former still had remained. Banister's previous private detective office, I also knew, had been -- before he had moved to the Newman Building at Camp and Lafayette -- in the Balter Building, which had been directly across the street from the Masonic Temple. It was after he moved his office from across the C.I.A. and the F.B.I.'s old location that he

moved it to the location directly across the street from the O.N.I. and the Secret Service.

Considering the propinquity which its members maintain with one another, it is hardly surprising that they refer to their collective group as the Intelligence Community. However, it appeared to me to have been exceedingly nonchalant for a man planning to kill the President to have chosen the United States government's intelligence complex as the place to spend his spare time until shortly before his lonesome strike.

In most civilized countries, under such circumstances, a serious investigation would have begun with the working hypothesis that Lee Oswald had been used in New Orleans by the Intelligence Community as an agent provocateur. Thus would have been understood at the outset his extravagantly high profile as a "supporter" of Fidel Castro.

However, in the years since President Kennedy's murder federal investigators never once had glanced in the most obvious of directions. Instead they made a great pretense of looking high and low in every other quarter except that one to which they dared not turn their eyes. Similarly, the highest officers on the United States Government did a remarkable job of appearing to have been totally unaware of the concept of the agent provocateur, so widely recognized throughout all the rest of the civilized world.

Needless to say, by the time I had returned home that day I had come to realize that I had some serious problems

waiting for me to try to resolve. The application of every reasonable model to the available evidence had left me with a troubling conclusion.

That was the apparent possibility of a pre-existing relationship between the man who had been pictured to all the world as the lonesome killer of President Kennedy and the federal Intelligence Community of the United States Government.

assassination and had found it to be indeed the result of a meaningless act by a man acting alone.

Certainly, the last thing in the world to occur to me was the possibility that the removal of President Kennedy and the subsequent arrival of half a million members of the American military in Vietnam might be related.

Of course, with regard to the assassination, like everyone else I was aware of some of the odd contradictions. It was public knowledge that most of the crowd in Dealey Plaza thought that they had heard, and even seen, shooting from the grassy knoll up in front of the President. Some of them had run up the knoll, behind the wooden fence on top of it, into the railroad yard in the back, and supposedly had been stopped by men identifying themselves as Secret Service agents.

And, undeniably, there had been some real sloppiness in the protection system for the President. Everyone knew tht the protective bubble had been removed from his limousine and had seen the photographs of the numerous wide open windows overlooking Dealey Plaza. But these, I reasoned, were the first things that any investigation would have dug into -- precisely because they were such anomalies. The F.B.I. most certainly had done just that and -- as if that were not enough -- the Warren Commission had inquired extensively into the matter for eight months.

The mutual conclusion of these two weighty bodies that all the shooting had been done by one man behind the President had had the effect upon me of converting the allegations about

Report. That's the trouble with transients. They never settle down long enough for you to mug them or take their fingerprints -- or even ask their names.

I also found that Oswald had been questioned -- without benefit of any taping or shorthand notes by a stenographer (least of all, the presence of an attorney) -- while in the custody of Captain Fritz of Homicide. Such perpetuation of testimony is routine even in minor felony cases. The alleged President's murderer had been questioned for a total of 12 hours but the official investigators had no notes at all to show what subjects -- if any -- had been discussed. The complete absence of any perpetuation of the questions and Oswald's answers -- was, to put it conservatively, a very large red flag. In the light of what subsequently

and David Ferrie. He and I were both in the same chapter of the Society of Special Agents of the F.B.I.

While it was true enough that by 1963 this man had become vice-president of the coffee company, he had not been a career man in the coffee business. Rather, he had been, like Banister, a career agent most of his adult life in the Federal Bureau of Investigation. Subsequently, he had become a vice-president of the Standard Fruit Company, which had been in the business of importing bananas from Central and South America. By 1963, he had moved into the business of importing coffee from the same area. I had no way of knowing whether or not it applied to him specifically but I long had known that it was common practice for our intelligence machinery to use the banana and coffee companies -- all engaged in business down in Central and South America -- as covers for its agents engaged in the acquisition of information and other espionage functions. By the same token, I had long known that it was a practice of an agency in the Intelligence Community (such as the C.I.A.) to take aboard a man retiring from another of the agencies (such as the F.B.I.).

As I looked at the small coffee company building I wondered whether Lee Oswald actually had worked there daily. I wondered whether he really had labored as a "second oiler" as his papers had shown or whether the company simply had been his nesting place until it was time for him to go to work out of Guy Banister's location at his ill-fated assignment as an agent.

provocateur.\*

The other building, next door to the coffee company, was the Crescent City Garage. Here, according to its operator, Adrian Alba, Lee Oswald had spent a great deal of time when it appeared to Alba that he should have been working at Reily's.\*\* Alba described Oswald's interest in the rifle magazines which he had there. It is not too surprising that there were plenty of gun magazines at the place for Oswald to thumb through.

This garage where Oswald spent his apparently substantial free time while employed by the Reily Company was not exactly a Young Socialists Meeting Hall. Very much to the contrary, for years it had been the official parking lot for the local headquarters for the Federal Bureau of Investigation. Now, with the Bureau just recently having moved over to new offices on Loyola Avenue, the Crescent City Garage still was the nearest

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\*Later I would send a member of my staff over to the Reily Company to interview everyone at the place who had been associated in any way with Oswald in his work there. We learned that in every instance each person who had been connected with Lee Oswald had departed from the coffee company in less than two weeks following his departure. In every case the individual had been given a new job, paying considerably more money, at the National Aeronautical and Space Administration located at Michoud, out on the eastern edge of the city.

\*\*Later, it should be observed, Alba would testify to more than Oswald's visits to the garage. He testified in 1978 before the House Sub-Committee on Assassinations that he had "often seen Oswald in Mancuso's Restaurant on the first floor of 544 Camp Street." (Emphasis supplied). Supra, Committee Report, page 146. The House Committee would concede that David Ferrie and Guy Banister also were frequent customers at Mancuso's. (Emphasis supplied). Ibid.

## NOTES

### Chapter Two

- Page 5      Rounding out the Commission selected by Johnson were Chief Justice Earl Warren, Representative Hale Boggs and Senator John Sherman Cooper.
- Page 6      Julia Ann Mercer. Decker Exhibit 5323, WCE Vol. XIX, p. 483.
- Page 7      Lee Bowers. VI WR 170.
- Page 8      J. C. Price. WCE 2003, p. 52.
- Page 8      S. M. Holland. VI WR 243.
- Page 8      O V. Campbell. Mr. Campbell was not called to testify before the Commission but had described his reaction to the shots to Mrs. Robert Reid. III H 274.
- Page 8      James Tague. VII H 557.
- Page 8      Billy Lovelady. VI H 338.
- Page 9      Abraham Zapruder. VII H 571.
- Page 9      Forest Sorrels. VII H 345.
- Page 9      William Newman. WCE 2003, p. 45.
- Page 9      Emmet Hudson. Decker Exhibit 5323, WCE Vol. XIX, p. 481.
- Page 10      L. C. Smith. Decker Exhibit 5323, WCE Vol. XIX, p. 516.
- Page 10      Malcolm Summers. Decker Exhibit No. 5323 WCE Vol. XIX, p. 500.
- Page 10      Jean Hill. VI WH 221-222.
- Page 10-11      Lee Bowers. VI WH 288.
- Page 11-13      Sergeant D. V. Harkness VI WH 312.
- Page 14      Concerning the unrecorded questioning of Oswald. Captain Will Fritz. IV WH 205.
- Page 17      Oswald's use on pamphlets of the address 544 Camp Street. WR 408.

Page 20 We located a lead to Oswald's use of the employment office when I noticed that one of the young men shown in local news photos handing out leaflets with Oswald looked very much like the son of a fellow artillery officer in the National Guard. I called Charles Steele and learned that indeed it was his son, Charles, Jr. We interviewed young Steele and learned that Oswald had hired him and the others at \$2.00 an hour to hand out pamphlets with him. He told them that they only had to do this until the news photographers departed, after which they were free to go. Obviously, his true role lay not in proselytizing -- obtaining a serious audience response -- so much as it lay in his being an agent provocateur, seeking a public relations effect.

Page 21 F.B.I. Special Agent John Quigley. IV WH 438.

SYMBOLS FOR NOTES

WH	Warren Commission Hearing
WCE	Warren Commission Exhibit
WR	Warren Report

Working Copy

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### THE SERENITY OF IGNORANCE

Most people remember clearly where they were when President Kennedy's assassination occurred. I was working at my desk, as District Attorney of New Orleans, when the door flew open and my chief assistant rushed in. "The President has been shot!" he yelled.

Today, a quarter of a century later, I remember my shock, my feeling of disbelief. I recall my brief hope -- after I realized that what Frank Klein was telling me was true -- that perhaps Kennedy merely had been wounded and would survive. Of course, at that early moment, there was no way of our knowing of the thoroughness of his butchery in Dallas.

Frank and I headed for Tujague's on Royal Street in the French Quarter. It was a quiet, uncrowded place where we knew they kept a television set in the dining room. On the way, we learned from the car radio that Jack Kennedy had been killed. The remainder of that trip was spent in absolute silence.

At the restaurant the midday customers were staring solemnly at the television set mounted high in the corner of the room. I felt a sense of unreality about the place as the unending reportage flooded in from Dallas. Very little conversation was occurring at any of the tables. A waiter came up and we ordered something for lunch. When it arrived we toyed

century, he would have been the equivalent of eight feet tall today), he was not at all self conscious about it but became very successful in the real estate and coal business. He stood straight as an arrow, wore a magnificent turn-of-the-century moustache and dressed elegantly, having his clothes tailor-made in New York and sent to him (there were, of course, no Tall Men's clothing stores in those days).

As one of the leading businessmen of Knoxville, Iowa, and undoubtedly as one of its leading characters, he often would represent the town at the railroad station when an important dignitary stopped by on the cross-country train passing through. When he did so, he wore a red, white and blue Uncle Sam costume -- including the stovepipe hat -- exemplifying the patriotism of the citizens of Knoxville. I have a photograph of him, imposing in this grand regalia, greeting President William Howard Taft, who has just dismounted from the train.

Even more importantly, perhaps, my trust in the government grew out of my experience in the military, during World War II and thereafter. I had entered the Army with my Louisiana National Guard unit a year before Pearl Harbor and enjoyed the experience sufficiently that the Army came to be something of a surrogate family to me. After being commissioned a Lieutenant in the Field Artillery, I volunteered for training as a pilot to fly grass hopper planes for observation of enemy targets.

After I received my silver wings, and following tactical flight training at the Army's artillery center at Fort Sill,

Oklahoma, I was sent to Europe where I flew in combat over the front lines in France and Germany. Our official designation, for some reason, was "liaison pilots" but the only liaison in which we ever engaged was when we met Focke-Wulfe and Messerschmidt fighter planes sweeping in to intercept us.

Like the other pilots with me, I had become an artillery pilot primarily for the adventure of it. However, my recollection is that every one of us was also doing this because it was our way of being part of the United States government's effort to defeat the German Nazis and the unquestionable evil which they represented.

I was never so conscious of this, and so satisfied with being been part of it all, as when -- after supporting the American infantry which captured the Nazi concentration camp at Dachau -- I arrived there the day after the infantry took the place. I saw the incredibly gaunt, starved bodies of the dead inmates piled high alongside the waiting crematorium with its great, heavily sooted brick chimney stacks.

I regarded the power which had done this as a temporary disorder belonging to that part of the world, a Nazi phenomenon, a Germanic thing. It seemed only natural that our government had trained us, then sent us across the ocean to help bring to an end to such a perversion of power.

I had never encountered deception of any kind during my five years in the Army in World War II. And the Army to me was synonymous with the United States government. After the Army years I continued to remain active as a Field Artillery Officer

in the National Guard until I retired after 23 years of military service. I should add that I would be still in the National Guard, and still equating the Army with the government, when President Kennedy was assassinated.

After Germany and my return to civilian life I followed my family tradition and went to law school at Tulane. After graduation I did postgraduate work and obtained a Master of Laws degree.

My stint in the F.B.I., which came shortly after Law school, was brief. Yet it was the competence which I saw there which caused me -- years later in 1963 -- to drop the matter of my arrest of David Ferrie, upon his return from Texas, when the chief of the New Orleans F.B.I. office announced that the Bureau had found that he had no connection with the assassination. I enjoyed the gathering of evidence and the occasional stakeout on a case. However, I found the ringing of doorbells to inquire about the loyalty and associations of an applicant for employment in a defense plant extremely boring.

Two things I retained from my F.B.I. experience. One was that, because of the great across-the-board efficiency of the organization, it could be as good as its leadership would allow it to be. On the other hand, it was hard to ignore the fact that -- at least during the years when J. Edgar Hoover was in command -- it strictly was a one man operation. Every order, every directive, everything which clicked out over the Telex machines in every office throughout the land was signed "Hoover." In any event, the day to day work which I did as an F.B.I. agent clearly

was too far removed from law for me and consequently I found it unchallenging. And so I returned to the law profession.

I found myself as a lawyer when, having become a trial assistant in the New Orleans District Attorney's office, I encountered on a daily basis the lively problem of actually making the law work. I enjoyed evaluating the evidence, picking out the jackstraws which were relevant and rejecting those which were not and attempting to communicate to juries what was true and what was not. To me this was at the heart of the business of justice.

As I write today, after ten years as an appellate judge, I remain aware of the enormous satisfaction I found during those years when I first became a part of the machinery which made truth and fairness not merely concepts but reality. It was not enough merely to see that the guilty went to jail. It was equally important to me to see that those who were not guilty did not go to jail.

My arrival in the position of District Attorney of New Orleans was something of an accident. In fact, to many people it came as a great shock. The incumbent in the late 1950's, and on into the early 1960's had been an excellent attorney with regard to civil law practice -- essentially business law. However, his prosecutor's operation had never been well organized and as a District Attorney's office it was more like a Chinese whorehouse in a hurricane. As a former executive assistant District Attorney -- in a prosecution operation which had been a good one -- I felt a strong concern about that particular office. When he

ran for re-election I ran against him along with a number of others.

I was given no chance whatsoever to win nor did I expect to win. However, I thought my participation in the election might help one of the others who would produce a better office. One of the candidates, in addition to the politically powerful incumbent, had the endorsement of a major political organization. I felt that he probably would come up with a better D.A.'s office.

Meanwhile, for my campaign, I borrowed some money from the bank and had a judge's bench, with a witness chair alongside it, built at a television station. All of my initial television spots and even my fifteen minute appearances on television were made with me standing in that "courtroom." I regularly opened my television appearances, as I gestured toward the bench and the witness chair, with the phrase "This is your courtroom. It belongs to you."

I spoke to the people of New Orleans...about what the job of a D.A. was...about how the courts worked...about the drug problem.... When the television camera's light blinked red and I looked into the camera and began speaking, I could almost see the men and women in the city listening to me.

I did not go through the streets shaking hands and slapping backs. I did not attempt to have rallies organized for me. I did not have circulars handed out in my behalf. I did not solicit the support of any political organizations. I simply spoke directly to the people on television. And -- inasmuch as I

truly did not have any real support -- I always made it a point to appear on television alone, to emphasize my independence, to turn my lack of political support into an asset.

To my surprise -- as well as to the astonishment of a good many others -- I was elected District Attorney of New Orleans. This was the first time in the city's history that any public official ever had been elected citywide without any political support.

Consequently, I arrived on the scene with a brand new kind of D.A.'s office -- one without any obligations whatsoever to any individuals nor to any organizations. From the very beginning I chose my assistant D.A.s from among the top graduates of the neighboring law schools and from among the best of the city's young trial attorneys. There was not a single political appointment on my staff. What we did have was a common enthusiasm to make ours the best prosecutor's office in the United States.

The most important thing about our office was that there was no way that any outside force -- political or otherwise -- could bring to bear any pressure of any kind to affect our course of action. We all knew that from the outset, and took it for granted, but in retrospect that probably was the single most important result of the incredible accident of my election as a total independent.

I had been District Attorney for a year and ten months when John Kennedy was killed. Ours had been engaging work and all of us at the office completely had been caught up with the

idea of what we were building at Tulane and Broad.

On the other hand, I had no reason to question the integrity of the United States government. I had complete confidence in the efficiency of the F.B.I. Accordingly I felt comfortable about accepting the F.B.I.'s release of David Ferrie, leaving the assassination behind and returning the office back to our regular business.

Years later, in 1979, the House Special Committee on Assassinations, would announce a conclusion which was remarkably at variance with the statement which had been made by the Special Agent in Charge of the New Orleans F.B.I. office when he released David Ferrie as having no connection with the assassination. FMS

The Committee would criticize the government for its failure to pursue diligently, back in 1963 and 1964, the question of conspiracy. □

It would conclude, "on the basis of the evidence available", that President Kennedy probably was assassinated as the result of a conspiracy. It would acknowledge that one of the indications of a likely conspiracy was Lee Oswald's possible association in New Orleans with David Ferrie. In reaching the conclusion, however, the Committee would add that "it was puzzled by Oswald's apparent association with Ferrie." □  
*(Emphasis supplied)* 77

I had arrested Dave Ferrie, on the suspicion that he was connected with the President's murder, on the morning of November

25th, 1963 -- less than 72 hours after the assassination. I had put him in jail and ordered him held for investigation by the F.B.I. Perhaps the House Committee would have been less puzzled by "Oswald's apparent association with Ferrie" had I not accepted the government's release of Ferrie at the time and turned my attention away from the assassination.

However, back in 1963 I genuinely believed that the United States government was interested in the truth. Up until then my background and my experience had helped to make me so idealistic that I was unable to conceive that the government ever would deceive the people. You might say that I had not yet acquired a very clear view of reality.

Washed 1/5/87

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## THE SERENITY OF IGNORANCE

Most people remember clearly where they were when President Kennedy's assassination occurred. I was working at my desk, as District Attorney of New Orleans, when the door flew open and my chief assistant rushed in. "The President has been shot!" he yelled.

Today, a quarter of a century later, I remember my shock, my feeling of disbelief. I recall my brief hope -- after I realized that what Frank Klein was telling me was true -- that perhaps Kennedy merely had been wounded and would survive. Of course, at that early moment, there was no way of our knowing of the thoroughness of his butchery in Dallas.

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At the restaurant the midday customers were staring solemnly at the television set mounted high in the corner of the room. I felt a sense of unreality about the place as the unending reportage flooded in from Dallas. Very little conversation was occurring at any of the tables. A waiter came up and we ordered something for lunch. When it arrived we toyed

with our food but neither of us ate anything.

For an unusually long time, I recall, the information coming from the television set was remarkably inconclusive with regard to specific details. Oddly enough, despite the enormous crowd of onlookers at the assassination scene in Dallas, the crisp voices coming to us electronically were providing no real information at all about the source of the fatal shooting. The continuing confusion coming to us from Dallas remained spellbinding, made all the more so by snippets of added color commentary. Nevertheless, for at least two hours the facts revealed about who the rifleman or riflemen had been added up to exactly zero.

*FX  
June  
Spang*

However, we were hypnotized, despite the almost unending trivia, by the magic of the communication spectacle occurring in front of us. Hardly anyone left the restaurant that afternoon. The business and professional men who had come there for lunch cancelled their appointments. Frank and I made our calls to the office and returned to the television set.

Everyone then -- and for a long time afterwards -- was too stunned to be aware of the inordinately long time which had passed without the slightest hint having been given concerning the identity of Kennedy's killer or killers, least of all about any early arrests having been made. We were more concerned, perhaps, with what had happened to him and with our own hurt.

There was no perceptible reason for the unexplained delay in the relay of any results from the investigation thus far. It was not as if one of the commentators had said, for

example, that the assassins appeared to have escaped. That would have been understandable.

It had been made clear that the normal Secret Service operation in Dallas had been reinforced by additional agents from Washington, D.C. and most of the Dallas F.B.I. most certainly was out in force, not to mention the Dallas police. It simply did not make sense that for more than two hours there was no mention of the moderately interesting question as to who was believed to have shot the President.

Much later it was learned that minutes following the assassination, three men had been arrested after running from the grassy knoll -- the area directly in front of the President, from which most of the members of the crowd heard the shooting -- to the railroad yard in back. Those men were marched under shotgun arrest to the Sheriff's office on Houston Street. Their arrest, along with the shotguns in the hands of the police escort, was caught in photographs taken by three news photographers. Yet they were never mugged nor fingerprinted by the Dallas authorities. Not even their names were taken before their quiet release.\*

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\* In the case of this and subsequent references to sources, authorities or citations, the applicable information will be found in the Chapter Notes at the rear of the book. In this instance, for example, information authenticating the fact of the early arrest of these men will be found in the Notes for Chapter One, therein described after the reference to Page 3.

Henceforth, asterisks will be employed only with regard to minor notes for purposes of clarification at the bottom of the page. In order to facilitate reading, footnote numbers will not be used following sentences or paragraphs.

One cannot help but wonder how it was possible -- during the two hours in which no information at all was forthcoming about the source of the shooting -- for the Secret Service and the F.B.I. to fail to learn of this astonishing disappearance into thin air of the men arrested by police brandishing shotguns. Surely the three newspaper editors must have called federal authorities upon seeing the photographs. What could they have been told which caused them not even to publish the pictures? The failure to publish news photographs of such incredible significance fairly may be compared with failure to publish photographs -- had they been available -- of the Titanic in the process of sinking.

The Warren Commission, in the following year, totally would avoid acknowledging the arrest of anyone, with or without shotguns, at the assassination scene. The House Sub-Committee on Assassinations, sixteen years later, would concede the occurrence of the arrest of these men but would treat it as an investigative oversight of no great significance.

Then, well into the middle of the afternoon the arrest of Lee Oswald suddenly was announced. Approximately fifteen Dallas police officers had succeeded in catching the official assassin while he was seated in a movie theatre a considerable distance from the assassination scene. The delayed arrest burst like a bomb on the television screen and the long silence in Tujague's restaurant ended. You could feel -- and hear -- the sudden explosion of fury, the outburst of hate against this unknown young man named Lee Harvey Oswald.

There continued to be no mention on the television -- undoubtedly because the newscasters knew nothing about it -- of the arrest made of the three men at the assassination scene more than two hours earlier.

It would be long after the F.B.I. investigation and the Warren Commission formally had confirmed Oswald's sole guilt in Kennedy's killer that critics of the government's explanation of the President's elimination would discover the photographs taken of the unpublicized shotgun arrest of the men captured behind the grassy knoll within moments of the murder.

Now, the situation in Dallas escalated from one in which there had been a scarcity of significant news to one in which the incoming details were cascading out of the television set, with bulletins about Lee Oswald tumbling over each other in growing profusion and richness of detail.

By the following day, a Saturday, the name of Lee Harvey Oswald had been repeated so relentlessly on every form of media that overnight it had become a household name throughout the world. Similarly, his resume' was proliferating almost as swiftly and, increasingly, it was coming to include -- of particular interest to me -- more and more about his stay in New Orleans through the summer preceding the assassination.

By Sunday morning I had arranged for a special meeting of the key members of my staff to meet at the office that afternoon. The New Orleans connection meant that, however peripheral our effort might turn out to be, we had to inquire into Lee Oswald's possible associations in our jurisdiction

during the preceding summer.

Back on Friday afternoon, while Frank Klein and I were transfixed in front of the television set at Tujague's, a most unusual incident occurred at Guy Banister's office about twelve blocks away, on the other side of Canal Street. At least, it was unusual for Banister, a former Special Agent in Charge of the Chicago office of the F.B.I. and a man who had a lifetime reputation as a rigid exponent of law and order. As the sun was setting on the long afternoon of television coverage of the assassination in Dallas, the former F.B.I. chief beat Jack Martin -- an associate of his -- so badly with his pistol that the police had to cart the battered victim off to a hospital.

Banister, although he enjoyed an occasional martini at lunch at the International House, had never been known to drink to any serious extent during the day. He was an austere, highly composed individual for whom the pistol whipping of another man was exceedingly out of character. However, the fact of his explosively violent assault on Martin on the late afternoon of the assassination was memorialized permanently in the police report concerning the incident.\*

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\*New Orleans Police Department report number K-12634-63, dated November 22nd, 1963.

The ex-F.B.I. man, it developed, had made a noble effort to polish off all of the liquor in the Katzenjammer Bar in the 500 block of Camp Street. He had made his way back to his office where he became embroiled in a heated argument with Martin, a sometime private detective and hanger-on at the former's office.

The imbroglio erupted as the result of an injudicious observation by Martin, who also had been imbibing rather freely. Martin had been so rash as to inform Banister, during the course of their quarrel, that he had not forgotten certain unusual things which had been happening at the office during the summer.

This was not just another drunken donnybrook between two men which, at the end of the shouting, was over and done with. It would have a lasting effect, quite disproportionate in its enormity to the incident itself. Where Banister had been out of character in beating Martin, the latter -- hurting not only in his head but in his pride -- abandoned his customary unassertive character, his long playing role as the feckless, but unassertive runner of errands and a reaction which Banister could not have anticipated seems to have been triggered within the mousy exterior of the Jack Martin of old.

It should be observed that a .357 magnum -- such as the weapon with which Banister massaged Martin's head -- is not an ordinary hand gun. It is extraordinarily heavy in order to support its increased muzzle velocity. The brief altercation had converted Martin, in a matter of a minute or two, into a hospital case and a police patrol car carted him off to Charity Hospital on Tulane Avenue. It also had an even more dynamic result. It

caused him to speak out with regard to subject matter concerning which he otherwise predictably would have remained silent forever.

Out of this altercation would grow the initial lead -- a mere fragment, yet a lead nonetheless -- which within days would draw my office into the aftermath of President Kennedy's assassination. Three years later -- after my belated discovery of the many things to which Martin had been a witness -- it would serve as the fountainhead of a steady stream of information about some of the men around Lee Oswald during his summer in the city. Of course, I had no knowledge whatever of the altercation when it occurred nor for a considerable time thereafter.

While I knew Guy Banister fairly well and also had a friendly relationship with Martin, of whom I genuinely was fond, it would be several days before the first consequence of Martin's beating -- which would have the effect of leading us to the arrest of David Ferrie -- occurred. It would be considerably later, however, after I belatedly stopped accepting the official government story of Kennedy's murder that I acquired a full appreciation of the meaning of this violent encounter.

Like a tiny seed, the planting of which was unnoticed at the time, that unusual and explosive act by Guy Banister ultimately would lead to the first genuine investigation of President Kennedy's murder. Stung by the pain and outrage of his injury, Jack Martin within a day or so confided to a friend his murky suspicion that David Ferrie, an associate of Guy Banister's as well as habitue of his office, had driven to Dallas on the day of the assassination to serve as the "getaway" pilot for the men

involved in the assassination.\*

On Sunday afternoon we gathered in my office -- senior assistant District Attorneys and investigators -- two days after President Kennedy's murder. Such a weekend meeting -- whenever a crime had occurred on the national scene which had leads trailing to New Orleans -- had become a custom with my staff. Although I personally had no argument with the official lonely assassin scenario so rapidly taking shape through the media, I was not free to ignore the fact of Lee Harvey Oswald's unexplained three months in the city preceding the assassination.

It was in the course of checking out all possible associates of Oswald's in the city that we came across his having been seen during the summer with a man named David Ferrie. A routine review of our files revealed a police report based upon a complaint against Ferrie. (The complaint, a misdemeanor, had been refused for prosecution because the incident involved not Orleans Parish but a neighboring parish). Now I had my people on the telephones to develop the specifics of a possible Oswald-Ferrie relationship.

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\*At the time of this first revelation from Jack Martin, who was deathly afraid of Guy Banister, the latter was still alive. It would not be until three full years later that Martin would reveal -- in a series of lengthy conversations with me -- the awesome story of the activity at Banister's office, and the individuals involved, during the summer of 1963. See Chapter 3, THE MAN UNDER THE OAK TREE.

*Another long shot unexpectedly came through. We found a witness who remembered Lee Oswald having been a member of the Civil Air Patrol, as a youth, when Ferrie was the Captain of the unit. Later evidence would be found which would corroborate this.*

I had met Dave Ferrie once. The encounter had been casual but unforgettable. Shortly after my election as District Attorney I had been walking across Carondelet Street, near Canal. I was preoccupied with one thought or another but, half conscious that the waiting traffic was about to head my way, was beginning to quicken my step. At that moment I was stopped cold by a man who grabbed me by both arms.

The face grinning ferociously at me was like a ghoulish Halloween mask. The eyebrows plainly were greasepaint, one noticeably higher than the other. A scruffy, reddish homemade wig hung askew on his head as he fixed me with his eyes. The traffic was bearing down on us as he gripped me and I hardly could hear him amidst the din of the horns.

I remembered that he was shouting congratulations regarding my recent election. As I dodged a car, at last escaping his clutch, I recall his yelling that he had become a private investigator. This brief street encounter would have been sometime in late 1962, the preceding year.

This recollection caused others to stir. His reputation, which had preceded our meeting, as an adventurer and pilot came to mind. Because I had been a pilot myself during World War II, the legend that he could get a plane in and out of the smallest

of fields had stuck in my mind. In my recollections of Ferrie also were other fragments which had not yet fallen into place -- with connotations of Cuban anti-Castrol activity, the abortive 1961 Bay of Pigs invasion of Cuba and Ferrie's frequent speeches to veterans' groups. It was my impression that his speeches invariably were about patriotism and anti-communism. The name of David Ferrie was well known in New Orleans.

Then one of my assistant D.A.'s, Herman Kohlman, learned about Ferrie's precipitate departure for Texas just 48 hours before -- on the very day of the assassination. The source, whom Kohlman verified as thoroughly reliable, was the man to whom Jack Martin had talked ~~to~~ after his pistol whipping by Guy Banister. Martin apparently had relieved himself of some of his accumulated aggression by telling him of his dark suspicions about Ferrie's sudden Texas trip (although he had given him no other information, such as Ferrie's connection with Guy Banister).

In spite of the fact that it had resulted in a refusal of charges, the information in the police report concerning Ferrie led us to his present address on Louisiana Avenue Parkway. I immediately sent off Frank Klein, my chief assistant, with a team of investigators to the place. In Ferrie's unkempt rabbit hutch of an apartment they found a mixture of Army rifles, ammunition clips, military canteens, military web equipment and, on the wall, a large map of Cuba. Also a part of the general profusion were two young men awaiting Ferrie's return from Texas. They said that Ferrie had headed there in his car early Friday afternoon -- approximately an hour after the assassination.

The timing which they described later was confirmed to us by other witnesses we found who had seen Ferrie in New Orleans as late as midday on November 22nd. This meant that Jack Martin's belief that Ferrie had been a "get-away" pilot had to be discarded but by no means did it mean that -- considering the curious timing and geographical factors -- we could regard him as clear of any possible connection with the assassination.

I left a round-the-clock stakeout at his apartment to await his return. On Monday morning Ferrie appeared at my office for questioning, his appearance every bit as disconcerting as when I had last seen him on Carondelet Street back in 1962. He denied ever having known Lee Oswald but admitted having departed in his car for Houston early Friday afternoon.

Somewhat to my surprise, considering his exuberant confidence at our last confrontation, I found him distinctly ill at ease and nervous. Even more surprising, the more he sought to explain his sudden need to drive to Texas and what he did there the less his story appeared to hold together. I had no idea at the time what his problem was -- because my questioning had brought out nothing which seemed to connect with the assassination in Dallas -- but I found his responses totally unacceptable.

For example, when I asked him the reason for his departure for Texas early Friday afternoon (an hour following the assassination) he responded that he had driven to Houston to go ice skating. When I then asked him why he had chosen one of the heaviest thunderstorms in many years as the occasion for his ice

skating trip he had no adequate reply.

Later we would learn that at the skating rink he had never put on ice skates but had spent all of his time at a pay telephone, making and receiving phone calls. We also would learn that subsequently he would drive down to Galveston, Texas, where he would be when Jack Ruby called Galveston the night before he shot and killed Lee Oswald. Needless to say, these details hardly were forthcoming from Ferrie when I questioned him.

Nevertheless, after a number of other responses which appeared to me to be not merely inadequate but even evasive, I ordered my investigators to take him to the First District Police Station, there to be booked and held in jail for questioning by the F.B.I.

From his answers to my questioning, I had not found anything which directly connected Ferrie with the assassination but I concluded that further investigation of this odd individual and his curiously timed junket very plainly was necessary. It had been a strange trip by a strange man at a particularly strange time. And his accounting for the trip had been particularly unconvincing. It was clear to me that he had not expected to be seriously questioned about details of his brief expedition and, whatever its purpose had been, had not had time to put together a believable cover story.

The F.B.I. released Ferrie with surprising swiftness. Moreover the Special Agent in Charge of the local office issued a statement to the media in which he said that the arrest of Mr. Ferrie had not been the F.B.I.'s idea but had been that of the

District Attorney -- an unprecedented comment for one law enforcement official to make with regard to another. Ferrie not only had been set free but released with an official exoneration.

I might add, however, in spite of my surprise at the local Bureau chief's pronounced rejection of our efforts in catching David Ferrie, I had the highest regard for that organization. Before committing myself to the law profession I had served briefly as an F.B.I. Agent, in Seattle and Tacoma, and had been very impressed by its organization and efficiency. This experience undoubtedly was an additional reason why it initially was completely unacceptable to me that the United States Government would lie in any way about the assassination.

Consequently, I assumed that the Bureau completely had examined Ferrie's trip in finding it to be of no moment. I turned my attention back to the prosecution of burglaries, armed robberies, murders and other local crimes.

I felt comfortable about leaving the matter thenceforth in the hands of the federal government. My office had begun an inquiry into Oswald's New Orleans associations but the F.B.I., in effect, had made it clear that we merely were spinning our wheels. I was confident that the government's own investigation into the President's murder would be exhaustive.

My trust in the government probably was typical of most Americans in 1963. However, it was particularly strong in my

case because of my background. My father had been an attorney as had his father before him. As a third generation lawyer, I had acquired a built-in regard for the law. I remain aware today of the influence upon me, in this respect, of my two colorful grandfathers.

Thomas Jefferson Garrison, my paternal grandfather, had been general counsel of the Northwestern Railway, headquartered in Chicago. One of the members of his legal staff -- a young lawyer named Clarence Darrow -- had acquired my grandfather's displeasure by his inclination to rebel against some of the more rigid strictures of the law. I have been told that he was vastly relieved (and I am sure that Darrow was, as well) when Darrow resigned from the railroad's legal staff to represent Eugene Debs. Darrow, as is well known, went on to become one of America's greatest trial attorneys. Ironically, as much as I admired my grandfather, I acquired a high regard for Darrow's unparalleled ability as a trial attorney as well as his great passion for justice. For this reason (and probably, as well, because of his relationship with my grandfather) one of my sons is named Darrow.

My maternal grandfather, William Oliver Robinson, was a most patriotic, as well as a most colorful man. He came from an unusually tall family, of predominantly Irish descent, being seven feet, three inches in height (his two brothers were each seven feet tall). He had no patience for fools nor for anyone who did not believe that ours was the greatest country in the world. Tall as he was (being full grown at the turn of the

century, he would have been the equivalent of eight feet tall today), he was not at all self conscious about it but became very successful in the real estate and coal business. He stood straight as an arrow, wore a magnificent turn-of-the-century moustache and dressed elegantly, having his clothes tailor-made in New York and sent to him (there were, of course, no Tall Men's clothing stores in those days).

As one of the leading businessmen of Knoxville, Iowa, and undoubtedly as one of its leading characters, he often would represent the town at the railroad station when an important dignitary stopped by on the cross-country train passing through. When he did so, he wore a red, white and blue Uncle Sam costume -- including the stovepipe hat -- exemplifying the patriotism of the citizens of Knoxville. I have a photograph of him, imposing in this grand regalia, greeting President William Howard Taft, who has just dismounted from the train.

Even more importantly, perhaps, my trust in the government grew out of my experience in the military, during World War II and thereafter. I had entered the Army with my Louisiana National Guard unit a year before Pearl Harbor and enjoyed the experience sufficiently that the Army came to be something of a surrogate family to me. After being commissioned a Lieutenant in the Field Artillery, I volunteered for training as a pilot to fly grass hopper planes for observation of enemy targets.

After I received my silver wings, and following tactical flight training at the Army's artillery center at Fort Sill,

Oklahoma, I was sent to Europe where I flew in combat over the front lines in France and Germany. Our official designation, for some reason, was "liaison pilots" but the only liaison in which we ever engaged was when we met Focke-Wulfe and Messerschmidt fighter planes sweeping in to intercept us.

Like the other pilots with me, I had become an artillery pilot primarily for the adventure of it. However, my recollection is that every one of us was also doing this because it was our way of being part of the United States government's effort to defeat the German Nazis and the unquestionable evil which they represented.

I was never so conscious of this, and so satisfied with being been part of it all, as when -- after supporting the American infantry which captured the Nazi concentration camp at Dachau -- I arrived there the day after the infantry took the place. I saw the incredibly gaunt, starved bodies of the dead inmates piled high alongside the waiting crematorium with its great, heavily sooted brick chimney stacks.

I regarded the power which had done this as a temporary disorder belonging to that part of the world, a Nazi phenomenon, a Germanic thing. It seemed only natural that our government had trained us, then sent us across the ocean to help bring to an end to such a perversion of power.

I had never encountered deception of any kind during my five years in the Army in World War II. And the Army to me was synonymous with the United States government. After the Army years I continued to remain active as a Field Artillery Officer

in the National Guard until I retired after 23 years of military service. I should add that I would be still in the National Guard, and still equating the Army with the government, when President Kennedy was assassinated.

After Germany and my return to civilian life I followed my family tradition and went to law school at Tulane. After graduation I did postgraduate work and obtained a Master of Laws degree.

My stint in the F.B.I., which came shortly after Law school, was brief. Yet it was the competence which I saw there which caused me -- years later in 1963 -- to drop the matter of my arrest of David Ferrie, upon his return from Texas, when the chief of the New Orleans F.B.I. office announced that the Bureau had found that he had no connection with the assassination. I enjoyed the gathering of evidence and the occasional stakeout on a case. However, I found the ringing of doorbells to inquire about the loyalty and associations of an applicant for employment in a defense plant extremely boring.

Two things I retained from my F.B.I. experience. One was that, because of the great across-the-board efficiency of the organization, it could be as good as its leadership would allow it to be. On the other hand, it was hard to ignore the fact that -- at least during the years when J. Edgar Hoover was in command -- it strictly was a one man operation. Every order, every directive, everything which clicked out over the Telex machines in every office throughout the land was signed "Hoover." In any event, the day to day work which I did as an F.B.I. agent clearly

was too far removed from law for me and consequently I found it unchallenging. And so I returned to the law profession.

I found myself as a lawyer when, having become a trial assistant in the New Orleans District Attorney's office, I encountered on a daily basis the lively problem of actually making the law work. I enjoyed evaluating the evidence, picking out the jackstraws which were relevant and rejecting those which were not and attempting to communicate to juries what was true and what was not. To me this was at the heart of the business of justice.

As I write today, after ten years as an appellate judge, I remain aware of the enormous satisfaction I found during those years when I first became a part of the machinery which made truth and fairness not merely concepts but reality. It was not enough merely to see that the guilty went to jail. It was equally important to me to see that those who were not guilty did not go to jail.

My arrival in the position of District Attorney of New Orleans was something of an accident. In fact, to many people it came as a great shock. The incumbent in the late 1950's, and on into the early 1960's had been an excellent attorney with regard to civil law practice -- essentially business law. However, his prosecutor's operation had never been well organized and as a District Attorney's office it was more like a Chinese whorehouse in a hurricane. As a former executive assistant District Attorney -- in a prosecution operation which had been a good one -- I felt a strong concern about that particular office. When he

ran for re-election I ran against him along with a number of others.

I was given no chance whatsoever to win nor did I expect to win. However, I thought my participation in the election might help one of the others who would produce a better office. One of the candidates, in addition to the politically powerful incumbent, had the endorsement of a major political organization. I felt that he probably would come up with a better D.A.'s office.

Meanwhile, for my campaign, I borrowed some money from the bank and had a judge's bench, with a witness chair alongside it, built at a television station. All of my initial television spots and even my fifteen minute appearances on television were made with me standing in that "courtroom." I regularly opened my television appearances, as I gestured toward the bench and the witness chair, with the phrase "This is your courtroom. It belongs to you."

I spoke to the people of New Orleans...about what the job of a D.A. was...about how the courts worked...about the drug problem.... When the television camera's light blinked red and I looked into the camera and began speaking, I could almost see the men and women in the city listening to me.

I did not go through the streets shaking hands and slapping backs. I did not attempt to have rallies organized for me. I did not have circulars handed out in my behalf. I did not solicit the support of any political organizations. I simply spoke directly to the people on television. And -- inasmuch as I

truly did not have any real support -- I always made it a point to appear on television alone, to emphasize my independence, to turn my lack of political support into an asset.

To my surprise -- as well as to the astonishment of a good many others -- I was elected District Attorney of New Orleans. This was the first time in the city's history that any public official ever had been elected citywide without any political support.

Consequently, I arrived on the scene with a brand new kind of D.A.'s office -- one without any obligations whatsoever to any individuals nor to any organizations. From the very beginning I chose my assistant D.A.s from among the top graduates of the neighboring law schools and from among the best of the city's young trial attorneys. There was not a single political appointment on my staff. What we did have was a common enthusiasm to make ours the best prosecutor's office in the United States.

The most important thing about our office was that there was no way that any outside force -- political or otherwise -- could bring to bear any pressure of any kind to affect our course of action. We all knew that from the outset, and took it for granted, but in retrospect that probably was the single most important result of the incredible accident of my election as a total independent.

I had been District Attorney for a year and ten months when John Kennedy was killed. Ours had been engaging work and all of us at the office completely had been caught up with the

idea of what we were building at Tulane and Broad.

On the other hand, I had no reason to question the integrity of the United States government. I had complete confidence in the efficiency of the F.B.I. Accordingly I felt comfortable about accepting the F.B.I.'s release of David Ferrie, leaving the assassination behind and returning the office back to our regular business.

Years later, in 1979, the House Special Committee on Assassinations, would announce a conclusion which was remarkably at variance with the statement which had been made by the Special Agent in Charge of the New Orleans F.B.I. office when he released David Ferrie as having no connection with the assassination.

The Committee would criticize the government for its failure to pursue diligently, back in 1963 and 1964, the question of conspiracy.

It would conclude, "on the basis of the evidence available", that President Kennedy probably was assassinated as the result of a conspiracy. It would acknowledge that one of the indications of a likely conspiracy was Lee Oswald's possible association in New Orleans with David Ferrie. In reaching the conclusion, however, the Committee would add that "it was puzzled by Oswald's apparent association with Ferrie."

I had arrested Dave Ferrie, on the suspicion that he was connected with the President's murder, on the morning of November

25th, 1963 -- less than 72 hours after the assassination. I had put him in jail and ordered him held for investigation by the F.B.I. Perhaps the House Committee would have been less puzzled by "Oswald's apparent association with Ferrie" had I not accepted the government's release of Ferrie at the time and turned my attention away from the assassination.

However, back in 1963 I genuinely believed that the United States government was interested in the truth. Up until then my background and my experience had helped to make me so idealistic that I was unable to conceive that the government ever would deceive the people. You might say that I had not yet acquired a very clear view of reality.

assassination and had found it to be indeed the result of a meaningless act by a man acting alone.

Certainly, the last thing in the world to occur to me was the possibility that the removal of President Kennedy and the subsequent arrival of half a million members of the American military in Vietnam might be related.

Of course, with regard to the assassination, like everyone else I was aware of some of the odd contradictions. It was public knowledge that most of the crowd in Dealey Plaza thought that they had heard, and even seen, shooting from the grassy knoll up in front of the President. Some of them had run up the knoll, behind the wooden fence on top of it, into the railroad yard in the back, and supposedly had been stopped by men identifying themselves as Secret Service agents.

And, undeniably, there had been some real sloppiness in the protection system for the President. Everyone knew tht the protective bubble had been removed from his limousine and had seen the photographs of the numerous wide open windows overlooking Dealey Plaza. But these, I reasoned, were the first things that any investigation would have dug into -- precisely because they were such anomalies. The F.B.I. most certainly had done just that and -- as if that were not enough -- the Warren Commission had inquired extensively into the matter for eight months.

The mutual conclusion of these two weighty bodies that all the shooting had been done by one man behind the President had had the effect upon me of converting the allegations about

all the activity up front around the grassy knoll, and the railroad yard behind it, into so much speculation.

That was the me of late 1966. I was quite content with the way my life was going and with the world around me. Perhaps "content" is not precisely the word. In retrospect, it would be more accurate to say that I was well tranquilized by the very world in which I lived.

Then one day that Autumn I had a chance conversation with Russell Long, the United States Senator from Louisiana. The subject of Kennedy's assassination arose. To this day I recall his words: "Those fellows on the Warren Commission were dead wrong," he said in his blunt fashion. "There's no way in the world that one man could have shot up Jack Kennedy that way." Of course, that was not the entirety of our conversation but that was the essence of it. He was firm in his conviction that much of the truth had been concealed from the public.

In spite of my awareness of some of the currents of doubt swirling around the official account of the assassination, I nevertheless was surprised to hear this from Russell Long. I knew him, however, to be one of the most intelligent members of the U.S. Senate. Moreover, this was the first sign I had encountered that in quarters so high -- as well as knowledgeable -- doubts still existed regarding Kennedy's murder.

To its chief occupant the District Attorney's office -- which has its own cross-currents of legal and administrative problems -- is much like a monastery which isolates him from the

outside world. Since the day the government had turned David Ferrie loose after I had arrested him and had him held for the F.B.I., I had not changed in my placid acceptance of its official story. Nor was I yet able to conceive that the government afterwards would have participated in any kind of coverup of the facts. Yet the force of Senator Long's words aroused my curiosity for the first time. I immediately ordered the entire set of the Warren Commission volumes -- the Hearings, the Exhibits and the Commission's Report.

While I waited for the books to arrive, I decided to learn more about how the Warren Commission had come into being so I spent some time at the library.

I learned that five days after the assassination Representative Goodall of New York had proposed a Joint Congressional Committee to conduct an investigation. The proposed committee would consist of seven Representatives and seven Senators.

Two days later, before Congress had taken any action to follow up on Goodall's proposed committee, President Johnson had announced that he already had formed an investigative commission. In the same announcement he named the seven members whom he had chosen. Conceivably to forestall any possible criticism that he was taking the investigation out of the hands of Congress he had included some representatives of each House.

I looked up the biographical information on each of his selections. It was apparent that his investigative group was

notably weighted with men whose backgrounds were pro-intelligence or pro-military\*. However, I could find no significance in that at the time.

The 26 volumes of the Warren Commission's hearings and evidence, as well as the Final Report, finally arrived. I immersed myself in them. For some weeks, mostly at night and on weekends, I ploughed through the pages of testimony and the exhibits.

This was not my idea of a stimulating project but I did it for the same reason that -- back in 1963 -- I had inquired into David Ferrie's oddly timed trip into Texas and arrested him upon his return. Lee Oswald had spent the summer in New Orleans preceding the assassination. New Orleans was in my jurisdiction as District Attorney.

The official conclusion of the Commission had been that Kennedy's murder had been accomplished by one man shooting from behind him. This was not merely crucial to the official position. It was sacramental.

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\*The chief example of this was Johnson's selection of Allen Dulles -- for years the head of the C.I.A. -- as a member of the Warren Commission. Congressman Gerald Ford, when the membership of the commission was announced, was described by Newsweek Magazine as being known to be "the C.I.A.'s best friend in Congress." Senator Richard Russell was the chairman of the Senate Armed Forces Committee and the head of its sub-committee on intelligence. John J. McCloy had been a former Assistant Secretary of War and also the United States government's High Commissioner in occupied Germany at the end of World War II. McCloy was generally regarded, at the time of his appointment to the Warren Commission, as the unofficial top man in the American Establishment.

Yet I discovered early on in my reading that the statements of many of the witnesses at Dealey Plaza did not support the official explanation of the President's murder. The impressions of a number of them, to the contrary, were vivid in their indication that shots were fired at Kennedy from in front of him.

Visualize the scene at Dealey Plaza. The motorcade, having just made the sweeping left turn from Houston Street was headed due west on Elm Street. At the time the President was hit, the Book Depository was well behind him, to his right rear. Up in front of him, somewhat to the right, was the grassy knoll with the wooden picket fence -- creating a small stockade -- on top. There was a grove of small trees clustered along the picket fence. Also on the right front, but slightly closer to the President, was an ornate concrete arcade. All of this was up on a terrace high atop the grass covered slope overlooking Elm Street.

About an hour before the assassination, Julia Ann Mercer was driving west past the grassy knoll on Elm Street. Caught in a traffic jam, she found herself stopped alongside a pick up truck parked part way up along the curbing. She saw a young man with a rifle, in a case, dismount and clamber up the steep incline onto the knoll. After the assassination, she reported

this incident both to the F.B.I. and the Dallas Sheriff's Office.\*

Lee Bowers, the switchman for the railroad yard had a box seat view of this sector up ahead of the motorcade. From his glassed in tower, fourteen feet above the yard, he had a clear view in all directions. A few minutes before the shooting began he observed two men, strangers to the area, standing behind the picket fence on the knoll watching the approaching parade. Earlier he had watched a man driving a car around in the railroad yard, behind the knoll shortly before the shooting. The man appeared to be speaking into a hand held microphone. With regard to what he saw after the shooting, Mr. Bowers' impressions are described below.

J. C. Price, in an affidavit given to the Sheriff's Office, said that following the volley of shots he "saw one man run towards the passenger cars on the railroad siding.... He had something in his hand. I couldn't be sure but it may have been a head piece."

Some of the witnesses not only heard shots coming from the picket fence, they saw smoke from the rifle fire drifting up through the cluster of trees. Like J. C. Price, an even larger number had the impression that men had run from the knoll after

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\*Later I would have the opportunity of talking at length with Miss Mercer. She corroborated fully the event of the young man with the rifle headed up the grassy knoll but, further, told me about the major alteration made in her statements by law enforcement authorities in an effort to change the facts. I will discuss this later in the book.

the shooting -- heading into the railroad yard behind. One police officer, who had been an escort alongside the President's car, drove his motorcycle up the high, ascending grade of the knoll towards the fence.

I read S. M. Holland's description of the shooting:

"I heard a third report and I counted four shots and ... in this grove of trees ... there was a shot, a report. I don't know whether it was a shot. I can't say that. And a puff of smoke came out about six or eight feet above the ground right out from under those trees. I have no doubt about seeing that puff of smoke and heard the report from under those trees..."

O. V. Campbell, the President of the Book Depository, referring to the shooting, said "it came from the grassy area down this way," indicating the direction in which the motorcade had been headed.

James Tague, who was cut on the face by a glancing bullet, said that "My first impression was that up by the, whatever you call the monument or whatever it was that somebody was throwing firecrackers up there...and the police were running up to it."

Billy Lovelady, who was having lunch on the front steps of the Book Depository -- from which building the official story has the lonely assassin doing all the shooting -- recollected the shoots as having come from "right there around that concrete little deal on that knoll ... between the underpass and the building right on that knoll."

Abraham Zapruder, who was standing on a cement slab on the grassy knoll with his back to the picket fence, described the police officers running past him, headed behind the knoll area. "I also thought it came from back of me," he added, with regard to the direction from which the shots appeared to have come.

Forrest Sorrels, the local Secret Service head, was riding in the front of the parade. He testified that when he heard the shots, "a little bit too loud for a firecracker," he looked over "at this terrace part there, because the sound sounded like it came from the back and up in that direction."

William Newman had been watching the parade with his family, from up on the grassy knoll a short distance in front of the picket fence. Newman said:

"We were standing on the edge of the curb looking at the car as it was coming toward us and all of a sudden there was a noise, apparently gunshot. The President jumped up in his seat, and it looked like what I thought was a firecracker had went off and I thought he had realized it. It was just like an explosion and he was standing up. By this time he was directly in front of me and I was looking directly at him when he was hit in the side of the head. Then we fell down on the grass as it seemed that we were in the direct path of fire.... I thought the shot had come from the garden directly behind me.... I do not recall looking toward the Texas School Book Depository. I looked back in the vicinity of the garden."

Emmet Hudson said that he had been sitting on the front steps of the sloping area (which are alongside the fence and go down to the street). At this time, he said, "the shots I heard

came from behind and above me."

L. C. Smith of the Sheriff's Office was on Main Street when he heard the shots. He ran "as fast as I could to Elm Street just West of Houston. There he encountered a woman who told him that "the President was shot in the head and the shots came from the fence on the north side of Elm."

Malcolm Summers recalled that when the shooting ended:

"Then all of the people started running up the terrace. Everybody was just running around towards the railroad tracks and I knew that they had someone trapped there...."

One lady, Mrs. Jean Hill, actually chased one of the men. She admitted that she wasn't sure what she would have done had she caught up with him. She testified that she saw the man go "toward the tracks, toward the railroad tracks in the west."

The railroad yard -- up ahead and to the right of where the President had been hit -- plainly was the destination of the men running from the assassination scene. I went back again to the testimony of Lee Bowers, the switchman there, whom I have quoted concerning what he saw before the shooting started. Here is his testimony -- while being questioned by a Warren Commission attorney -- about the aftermath:

"Mr. Ball: Afterwards did a good many people come up there on this high ground at the tower?

"Mr. Bowers: A large number of people came, more than one direction. One group converged from the corner of Elm and

Houston, and came down the extension of Elm and came into the high ground, and another line -- another large group went across the triangular area between Houston and Elm and then across Elm and then up the incline. Some of them all the way up. Many of them did, as well as, of course, between 50 and a hundred policemen within a maximum of 5 minutes.

"Mr. Ball: In this area around your tower?

"Mr. Bowers: That's right. Sealed off the area, and I held off the trains until they could be examined, and there was some transients taken on at least one train.

"Mr. Ball: I believe you have talked this over with me before your deposition was taken, haven't we?

"Mr. Bowers: Yes.

"Mr. Ball: Is there anything that you told me that I haven't asked you about that you think of?

"Mr. Bowers: Nothing that I can recall."

(Emphasis supplied).

The fact that at least one of the trains in the railroad yard had to be stopped by the switchman so that "transients" could be held off ordinarily would raise the hackles of any good attorney -- much less anyone who cared about Jack Kennedy. However, the Commission counsel not merely was unperturbed -- he changed the subject and cut off any more discussion concerning the accommodating departure by train of these unknown men.

Exactly the same legal maneuver occurred when Sergeant Harkness, who was charged with searching the departing trains, testified:

"Mr. Harkness: I went back to the front, and Inspector Sawyer -- helped to get the crowd back first, and then Inspector Sawyer assigned me to some freight cars that were leaving out of the yard, to go down and search all freight cars that were leaving the yard.

"Mr. Belin: Then what did you do?

"Mr. Harkness: Well, we got a long freight that was in there, and we pulled some people off of there and took them to the station.

"Mr. Belin: You mean some transients?

"Mr. Harkness: Tramps and hoboes.

"Mr. Belin: That were on the freight car?

"Mr. Harkness: Yes, sir.

"Mr. Belin: Then what did you do?

"Mr. Harkness: That was all my assignment, because they shook two long freights down that were leaving, to my knowledge, in all the area there. We had several officers working in that area.

"Mr. Belin: Do you know whether or not anyone found any suspicious people of any kind or nature down there in the railroad yard?

Apparently, Mr. Belin had not been listening to the witness very carefully.

"Mr. Harkness: Yes, sir. We made some arrests. I put some people in.

"Mr. Belin: Were these what you call hoboes or tramps?

"Mr. Harkness: Yes, sir.

"Mr. Belin: Were all those questioned?

"Mr. Harkness: Yes, sir; they were taken to the station and questioned.

"Mr. Belin: Any guns of any kind found?

"Mr. Harkness: Not to my knowledge.

"Mr. Belin: I want to go back to this Amos Euins. Do you remember what he said to you and what you said to him when you first saw him?"

(Emphasis added).

Perhaps Mr. Belin had a dinner engagement or something equally pressing on his mind. Here he has just been told about the use of a departing railroad train by strangers who are leaving the area where the President has just been murdered and he has no follow up questions to ask. He also changes the subject. "Amos Euins" had no connection whatsoever with the activity around the grassy knoll and the interesting occurrence of the timely, departing trains.

It seems hardly necessary to add that no further details were obtained by Sgt. Harkness' interrogator regarding the arrested men, particularly as to just who had seen to it that they were "taken to the station and questioned." Neither at the Dallas Sheriff's Office nor at the Police Department was there any record whatsoever of their arrest.

Nor was there, so far as I could find, any mention of their names anywhere in the 26 Warren Commission volumes. Nor was their railroad yard arrest and subsequent vanishment a source of any interest to the Warren Commission in its lengthy, rambling

THE AWAKENING

Three years passed.

These had been years of great satisfaction for me. We had re-built a bucolic D.A.'s office into a crackerjack operation. The office now had gone these three years without losing a single homicide case -- and it would be seven more years before we lost our first one. The pink walls and green pipes of the old office had been replaced with walnut panelling, as was only fitting for what we all regarded as one of the better law firms in New Orleans.

I regularly attended the National District Attorneys' Association Conventions at interesting locations such as Phoenix or Las Vegas or Los Angeles. More often than not, I was able to get away from the office once a week for lunch at Brennan's or Moran's or Antoine's.

I had come to accept it as self evident that I lived in the best of all possible worlds. By this time our military was deeply engaged in the war in South East Asia. Like most Americans, I took it for granted that our government had our troops over there to bring democracy to South Vietnam. Like most Americans, I also took it for granted that our government thoroughly had inquired into the facts of President Kennedy's

Report. That's the trouble with transients. They never settle down long enough for you to mug them or take their fingerprints -- or even ask their names.

What about Lee Oswald, the man named by the government as the lone assassin of Kennedy? What about the "evidence" showing that he shot the President from the sixth floor of the Book Depository?

That was, I discovered, a major problem for the government. In striking contrast to the evidence demonstrating that men were shooting at the President from his front, there was no evidence in the twenty-six volumes, which would be admissible in any court, connecting Lee Oswald with the assassination.

I did find that he had been given the nitrate test, the afternoon of his arrest, in order to see whether or not he had fired a rifle that day. The test indicated that he had not. Although this was not revealed to the public until eight months later, long after his execution, it would have gone a long ways toward exonerating him at any trial.

I also found that he had been questioned -- without benefit of any taping or shorthand notes by a stenographer (least of all, the presence of an attorney) -- while in the custody of Captain Fritz of Homicide. Such perpetuation of testimony is routine even in minor felony cases. Its complete absence -- with regard to the murder of the President of the United States -- was one very large red flag. In the light of what subsequently

12 hours!  
H

happened to Oswald, I reflected, the lack of concern by his questioners about the legal admissibility of his statements (in any subsequent trial) suggests that they were not seriously concerned about him being around long enough for a trial.

Now I wanted to know more about Lee Oswald, just what his role had been. The fact that he was not the "lone assassin" as our government had pictured him to the world had become painfully evident to me from the government's own material: the hearings and exhibits of the Warren Commission's inquiry.

I had a long meeting with Frank Klein and Lou Ivon, leaving them photostatic copies of the key statements for them to study. I let them know that my intuition told me that we might end up having a very large problem on ~~my~~ hands. I arranged for Klein to order an additional set of the Warren Commission volumes for his -- and the office's -- use. I also gave him some of the volumes which I had and directed him to the significant pages.

So now I delved headlong into those parts of the Hearings and Exhibits about Lee Oswald -- about him in the Marines, in Russia after his alleged defection, about him in New Orleans and back again in Dallas. One night, just before the arrival of a weekend, I found myself reviewing again his service at El Toro Marine Base in California (shortly before his highly publicized defection to Russia).

Now I found myself reading the testimony of Lieutenant Colonel Folsom, who was reading aloud from Oswald's training

record. He described a grade which Oswald had received in a Russian examination which he had been given at El Toro. He added that Oswald's grade hadn't been very good, that he had almost as many wrong answers as he had right. However, he didn't add that fast enough to make any difference.

Russian examination! My ears went up.

In all my years of military service during World War II -- and since -- I had never even taken a test in Russian, much less an examination. Never mind Colonel Folsom's testimony that Oswald only had two more Russian words right than wrong. I wouldn't have had any Russian words right. In 1959 (when Oswald had been given the exam while in the Marines) as a staff officer in the National Guard I was in a battalion made up of hundreds of soldiers. I knew that none of them had been required to show how much Russian they knew. Even on that night in 1966 when I read Colonel Folsom's testimony I still was in the military service -- by now a Major -- and I could not recall a single soldier ever having been required to demonstrate how much Russian he had learned.

Soldiers ordinarily are not taught Russian any more than they are taught philosophy or art or music -- not if they are truly members of the combat branch to which they are assigned. The government's witnesses -- and its exhibits -- had described Oswald as having been a Marine assigned to anti-aircraft duty. A soldier genuinely involved in anti-aircraft duty would have about

as much use for Russian as a cat would have for pajamas.

I read no farther that night. I am sure I did not sleep much. For the first time there had dropped right into my lap an indication that Lee Oswald -- in 1959, at least -- had been receiving intelligence training.

To anyone with any military background it is common knowledge that Marine intelligence activity is guided by the Office of Naval Intelligence -- often colloquially referred to simply as "O.N.I." That night I went to bed wondering what possible connection there might have been between the O.N.I. and Lee Harvey Oswald.

The next morning I headed downtown to the seedy, faded sector of town in which 544 Camp Street was located. I had obtained this address from the Exhibits section of the Warren Commission volumes. It had been imprinted by a small hand stamp (later found, along with a stamp pad, among Oswald's possessions) on the "Fair Play for Cuba" pamphlets which he had been handing out, presumably as a rabid Communist, on the streets of New Orleans. I had noted this address down some weeks earlier but now I wanted to look at the place which Lee Oswald had put down as his return address for recipients of his material.

Catty-corner from Lafayette Square, I found 544 Camp to be located in a small mouse-colored structure built from a conspicuously unsuccessful imitation of blocks of granite. This modest edifice was called, I was later to learn, the "Newman

Building" after its current owner. This address, I should add, had been stamped by Oswald only on his initial public handouts but it no longer appeared on the subsequent pamphlets which he gave out. The entrance at this address opened onto stairs leading up to the second floor.

There was something familiar about the small building and it took me a moment or two to refresh my memory. Then I went around the corner, past where Mancuso's small restaurant used to be, and walked a few steps down Lafayette Street to the other entrance of the building.

There I found myself looking at the door of what I knew had been -- back in 1963 -- the entrance to the private detective office of Guy Banister upstairs.\* This was the other entrance to the same floor to which the first entrance, 544 Camp, led. Banister had died in 1964 -- about nine months after the assassination. He had been a career agent in the Federal Bureau of Investigation and ultimately had become the Special Agent in Charge of the Chicago office. Upon his retirement he had been appointed Deputy Superintendent of Police in New Orleans.

On a number of occasions, presumably for liaison purposes inasmuch as I was D.A. -- and because I also had been in the F.B.I. -- he had invited me to lunch. A ruddy faced man with blue eyes which stared right into you, he dressed immaculately

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\*Located at 531 Lafayette Street in 1963, the door had borne the designation, "Guy Banister Associates, Inc. Investigators."

and always wore a small rosebud in his lapel. Even though no longer in the Bureau, it had been plain that he shared the sentiments of J. Edgar Hoover, its long time chief, and left no doubts in any listener about his commitment as a dedicated, action-oriented anti-Communist. Nonetheless, he was -- so long as you kept the conversation away from the subjects of communism or foreign policy -- an interesting fellow and with me he would recount colorful incidents from his many years with the F.B.I.

Now I realized why Oswald had only stamped "544 Camp Street" on the first circulars which he had handed out. Somebody had stopped him from doing that on the later circulars. And small wonder.

Guy Banister, and whoever his confederates were in the leaflet handout gambit, hardly could have been enthusiastic upon learning that the young ex-Marine had stamped Banister's address on the paraphernalia which he had given out.

Guy Banister was not just another citizen. I knew that in addition to his extensive federal background he was heavily into anti-Communist endeavors of all kinds. A young attorney with whom I frequently had played chess at the New Orleans Chess Club had told me how, when he had been a college student, Banister had hired him and others to find radical, or even liberal, organizations on the campus, to join and penetrate them. I knew further that Banister was a leader of the anti-Communist League of the Carribean because a partner of his

in the organization, an attorney named Maurice Gatlin, had lived at the Claiborne Towers apartment building at the same time I had.

So Guy Banister's office, I reflected, was the headquarters out of which the "Marxist oriented" pamphleteer had operated. Now some of the things I had learned about Oswald mae more sense to me. ✓

Whenever Oswald was going to hand out pro-Castro leaflets, I had learned from my nights with the Hearings and Exhibits, he regularly had gone to a local employment office and had hired men there to help him in his distribution work. He had paid them in cash for the job. I had learned this from identifying -- with the help of Klein and some of the investigators -- some of the men photographed during the distribution. We had located them and had questioned them. Oswald's method of distribution had struck me at the time as being very capitalistic for a Marxist. A true Marxist would have paid nothing for the services and, moreover, very likely would have had a few Marxist friends to assist him without charge.

From that I had acquired my first indication, later to receive further reinforcement, that Lee Oswald had not been a "communist" nor a "Marxist" of any kind. What appeared to be considerably more probable, especially considering how he ultimately was disposed of after they finished using him, was that Guy Banister -- or some one associated with him -- was ostensibly (at least for Oswald's benefit) using him as an agent provocateur. What was really being done was that he had been set

VI "I BUMPED THE WALL AND A . . . BULLET ROLLED OUT . . ."

As is frequently the case, when dealing with matters vitally effecting its conclusions, the Commission is vague and somewhat contradictory in referring to the "finding" of bullet 399. It is variously described as having been " . . . found on Governor Connally's stretcher"; as having " . . . rolled out . . . after one of the stretchers (was bumped) against the wall . . ."; and as having " . . . rolled off the stretcher used by Governor Connally". Tomlinson himself says:

Mr. Tomlinson: I pushed it (a stretcher) back against the wall.

Mr. Specter: What, if anything, happened then?

Mr. Tomlinson: I bumped the wall and a spent cartridge or bullet rolled out that apparently had been lodged under the edge of the mat.

Later, he adds:

. . . I made several trips before I discovered it on the end there.

Despite his rather ambiguous references, Tomlinson seems to be indicating that he first saw the bullet on the stretcher immediately after bumping it against the wall; and he assumes it had rolled onto the stretcher from under the mat folded at one end. A simple question or two by Specter could have clarified at least this point, but they were not asked. (Tomlinson explains that the two stretchers had been about two feet from the corridor wall, near the door to the men's room. An "intern or doctor" moved a stretcher away from the wall "to get in" to the men's room, and when he failed to replace it on leaving, Tomlinson pushed it against the wall and " . . . a bullet rolled out . . .")

Furthermore, the Commission's conclusion that Tomlinson "found"

R-79,95,557  
R-81

R-841

3/20/64  
6/130

the bullet on Governor Connally's stretcher is not only unsupported by anything Tomlinson said, but is contrary to his repeatedly stated view that he believes it was the corridor stretcher which he pushed against the wall, just before he "discovered" the bullet on it. But since it has been shown (as the Commission definitely concludes) that the corridor stretcher was most probably unconnected with either victim, there would be no legitimate way an assassination bullet could have come from it.

6/31-134  
To avoid this ominous pitfall, Specter subjects Tomlinson to relentless pressure in order to change his belief that it was the corridor stretcher he bumped against the wall. But despite the badgering by Specter (and previous questioning by the FBI and Secret Service), Tomlinson makes it abundantly clear that he continues to believe it was the corridor stretcher, and not the one he took off the elevator, that he bumped against the wall, and from which he retrieved the bullet; although he is not sure to the point of being willing to take an oath to that effect.

It is equally clear, however, that Mr. Specter is unwilling -- if he can help it -- to leave on the record Tomlinson's belief that the bullet was found on a stretcher which the Commission says was unconnected with the assassination. He continues to press Tomlinson:

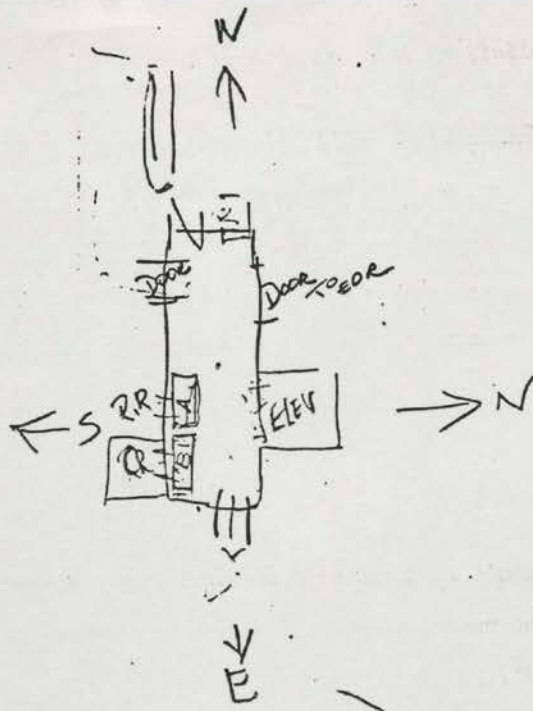
Mr. Specter: When I first started to ask you about this, Mr. Tomlinson, you initially identified stretcher A (the one Tomlinson believes the bullet did not come from) as the one which came off the elevator car?

Mr. Tomlinson: Yes; I think it's just like that.

Mr. Specter: And, then, when --

At this point, Mr. Specter succeeds, if not in getting Tomlinson to abandon

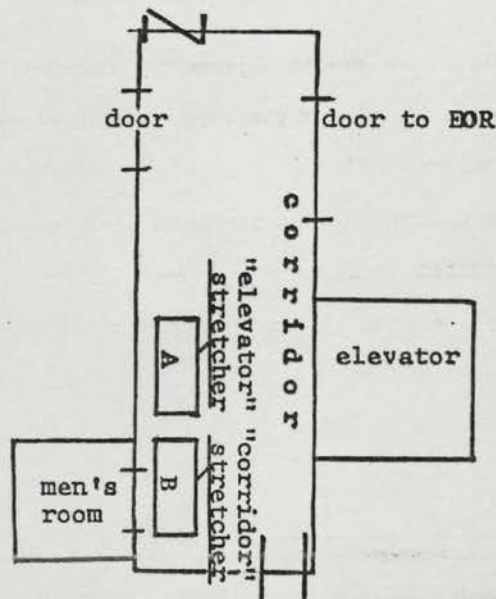
Tomlinson X-12



TOMLINSON EXHIBIT No. 2

The above sketch was made by Darrell C. Tomlinson to illustrate the hospital corridor and stretcher arrangement.

The sketch below is of the same area, and is presented for greater clarity. It is not a Commission exhibit, and is not drawn to scale.



his belief, at least in getting his goat.

5/132  
Mr. Tomlinson: (interrupting) Here's the deal -- I rolled that thing off, . . . got a call, and went to the second floor, picked the man up and brought him down. He went . . . and picked up two pints of . . . blood. . . . (then) we took off for the second floor and I came back to the ground. Now I don't know how many people hit them -- I don't know about what could have happened to them in between the time I was gone, and I made several trips before I discovered the bullet on the end of it there.

Tomlinson's implication that something "could have happened" to the stretchers while he was gone, shortly before he discovered the bullet, suggests two possibilities. The first is innocent enough; that someone, on his way through the corridor or into the men's room, may have moved the stretchers around during Tomlinson's absence, thus confusing him as to whether the stretcher on which he "found" the bullet was or was not the same one he discovered in the corridor. But the second possibility is anything but innocent; that in his absence someone may have placed the bullet on the stretcher.

Obviously, the second alternative immediately raises the dark cloud of conspiracy; and, if nothing else, the printed record of the Commission's work is historical proof that at no time did it make a serious attempt to explore sinister alternatives to its Oswald-the-lone-assassin theory. An adequate investigation would have made every effort to determine who the "intern or doctor" was who pushed the stretcher as he entered the men's room; as well as to locate and question all other persons who may have had access to them, in the corridor or elsewhere. But by no stretch of the imagination can the Warren Commission's efforts be factually described as an adequate investigation; and no such individuals were called.

Possibly, the innocent alternative may have emerged as the correct one, had such an effort been made. But possibly not. Perhaps further investigation would render more suspect the background of bullet 399. If one is determined not to draw sinister conclusions regardless of the facts, best not to tread on hazardous ground. At any rate, Mr. Specter takes no notice of either possibility implicit in Tomlinson's provocative remark. Instead of a relevant response, he chooses to ignore the implications, and continues to harass Tomlinson:

Mr. Specter: You think, then . . . that this could have been either, you took out of the elevator . . . or you just can't be sure?

Mr. Tomlinson: It could be, but I can't be positive or positively sure --  
I think it was A (the stretcher which he believes did not contain the bullet), but I'm not sure.

Mr. Specter: Now, before I started to ask you questions, which have been taken down here, I told you . . . that the Secret Service man wrote a report where he said that the bullet was found on the stretcher which you took off of the elevator.

Mr. Tomlinson: Yes; you told me that.

. . .

Mr. Specter: And there was a lot of confusion that day, which is what you told me before?

Mr. Tomlinson: Absolutely. And now, honestly, I don't remember telling him definitely -- I know we talked about it, and I told him that it could have been. Now, he might have drawn his own conclusion on that.

. . .

6/133-135

Mr. Specter: You just don't remember for sure whether you told him you thought it was A or not?

Mr. Tomlinson: No, sir; I really don't remember. I'm not accustomed to being questioned by the Secret Service and the FBI and by you and they are writing down everything, I mean.

Tomlinson's exasperated protest brings a solicitous reply from Specter:

Mr. Specter: That's all right. I understand exactly what you're saying . . . and I really just want to get your best recollection . . . and I appreciate that, and so does the President's Commission, and that is all we can ask a man.

Mr. Tomlinson: Yes, I'm going to tell you all I can, and I'm not going to tell you something I can't lay down and sleep at night with either.

\* \* \* \* \*

VII MR. DULLES IS CONFUSED; MR. SPECTER MAKES A PREDICTION

The murkiness of the stretcher-of-origin question makes it possible to sympathize with Commission member Allen Dulles in the perplexity he displays, during Dr. Humes' testimony on March 16, 1964.

Mr. Dulles: Could I ask a question about the missile, I am a little bit -- the bullet. I am a little bit -- confused. It was found on the stretcher. Did the President's body remain on the stretcher while he was in the hospital? . . . Otherwise it seems to me the bullet would have to have been ejected from the body before he was taken or put on the bed in the hospital.

Note that four months after the assassination, and therefore four months after the autopsy report ostensibly revealed that the bullet which struck President Kennedy in the back had exited from his throat, Mr. Dulles is still under a different impression; that the bullet did not exit from the President's throat at all, but had fallen from his body back through its own entrance wound, onto his stretcher.

At least the idea that a bullet was found on the President's stretcher is in line with early press reports that mentioned a stretcher bullet; but it is apparent that no one has informed Mr. Dulles of the Commission's yet-to-be adopted double-hit theory, which made it mandatory that the bullet that entered President Kennedy's back not come to rest in his body; for in order to account for the wounding of Governor Connally, it had much work remaining to do.

While Mr. Dulles' belief that 399 was found on the President's stretcher may have seemed plausible in relation to the earlier hypothesis that it had fallen from his body, it obviously was no longer tenable if 399 was now to exit from the President's throat, and go on to wound Governor

Connally. It is clear that if a "double-hit" bullet was to be legitimately found on any stretcher, it could only be Governor Connally's.

Furthermore, by this time Mr. Specter must have been aware that while it was entirely possible that one of the stretchers in the corridor where 399 was "found" had been used by Governor Connally, it was also highly improbable that either had been used by President Kennedy. Therefore, once again, the only stretcher such a bullet could have come from legitimately was the Governor's.

Mr. Specter then proceeds to bring Mr. Dulles up to date on the impending version of where bullet 399 was "found".

Mr. Specter: There has been other evidence, Mr. Dulles. If I may say at this point, we shall produce later, subject to sequential proof, evidence that the stretcher on which this bullet was found was the stretcher of Governor Connally. We have a sequence of events on the transmission of that stretcher which ties down reasonably closely, so that on the night of the autopsy itself, as the information I have been developing indicates, the thought preliminarily was that was from President Kennedy's stretcher, and that is what led to the hypothesis which we have been exploring about, but which has since been rejected. But at any rate the evidence will show that it was from Governor Connally's stretcher that the bullet was found.

The reader can judge for himself whether the subsequent testimony of Tomlinson, which we have already examined, justifies Specter's prediction that " . . . the evidence will show that it was from Governor Connally's stretcher that the bullet was found". What is not open to question, however, is the fact that Mr. Specter made this prediction four days before taking testimony from Tomlinson (March 16 v. March 20, 1964).

Since no other witness testifies to seeing bullet 399 prior to its "discovery" by Tomlinson, and since no written statement from Tomlinson appears in evidence, it is difficult to understand how Specter could be so sure of what " . . . the evidence will show . . .".

That Specter could come to such a conclusion at that time is further evidence that no illegitimate possibilities were considered in connection with the sudden and mysterious appearance of 399. Excluding such possibilities, therefore, and assuming the bullet came from one of two stretchers; one of which may have been Governor Connally's, and the other unconnected with the assassination, it is easy to see what the conclusion had to be. And if the circumstances surrounding the discovery of the bullet -- as described by the man who "found" it -- contradicted the pre-selected conclusion, then the description, and not the conclusion, must be deemed incorrect.

But even after Specter's lengthy "explanation", Dulles, small wonder, is still not clear on the bullet/stretcher matter:

Mr. Dulles: So this bullet is still missing?

(Since earlier testimony had given no indication that bullet 399 was lost, Mr. Dulles' query suggests that off-the-record conversations had taken place previously on this matter.)

Mr. Specter: That is a subject of some theories I am about to get into.

That is an elusive subject . . .

As to this conclusion, at least, it would be difficult to argue with Mr. Specter.

\* \* \* \* \*

VIII SUPPORTING DOCUMENTS?

There are in evidence three documents which relate to the "stretcher bullet", subsequently identified as Commission Exhibit 399.

18/800  
The first is a note from Secret Service Special Agent Richard E. Johnsen (Commission Exhibit 1024) dated November 22, 1963, 7:30 P.M., covering his transmittal of the bullet, and addressed presumably to his superior (no addressee appears on the note as reproduced and it appears to have been cropped immediately above the first line). The note reads as follows:

The attached expended bullet was received by me about 5 min., prior to Mrs. Kennedy's departure from the hospital. It was found on one of the stretchers located in the emergency ward of the hospital. Also on this same stretcher was rubber gloves, a stethoscope and other doctor's paraphernalia. It could not be determined who had used this stretcher or if President Kennedy had occupied it. No further information was obtained.

Name of person from who I received this bullet:

Mr. O. P. Wright  
Personnel Director of Security  
Dallas County Hospital District

By

Richard E. Johnsen  
Special Agent  
7:30 p.m.  
Nov. 22, 1963

The reference to "rubber gloves, stethoscope, and other doctors' paraphernalia" indicates that the stretcher to which Johnsen refers is the

OPTIONAL FORM NO. 10  
5010-106

UNITED STATES GOVERNMENT

## Memorandum

TO : Chief James J. Rowley

DATE: November 30, 1963

FROM : SA Johnson - White House Detail

~~Confidential~~

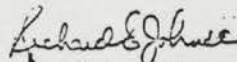
SUBJECT: Activities of Reporting Agent on November 22, 1963

Approximately 5 minutes prior to leaving the hospital with the casket and Mrs. Kennedy I was instructed to remain at the Presidential door and wait to be advised that the casket was leaving the hospital and then to ride the follow-up car to the airport. During this period a Mr. Wright from the security staff came to me with an expended bullet and wished to turn it over to a Secret Service Agent. The only information I was able to get from him prior to the departure of Mrs. Kennedy and the casket was that the bullet had been found on a stretcher which President Kennedy may have been placed on. He also stated that he found rubber gloves, a stethoscope, and other doctors' paraphernalia on this same stretcher.

On the drive from the hospital to AF #1 I rode the follow-up car. Upon our arrival at AF #1 I assisted in placing the casket upon USAF #26000. While awaiting for the departure of AF #1 I was instructed by ATSAIC Stout to ride in the rear of the plane with the casket. This had been a request of President Johnson.

Upon our arrival at Andrews Air Force Base, Md., I positioned myself near the press area. After the statement to the press by President Johnson I rode helicopter #2 to the White House.

APPROVED:


Richard E. Johnson  
SA 1-16Gerald A. Behn  
SAIC 1-16

## COMMISSION EXHIBIT 1024—Continued

The attached expended bullet was received by me about

5 min. prior to Mrs. Kennedy's departure from the hospital.

It was found on one of the stretchers located in the emergency ward of the hospital. Also on this same stretcher was rubber gloves, a stethoscope and other doctor's paraphernalia. It could not be determined who had used this stretcher or if President Kennedy had occupied it. No further information was obtained.

Name of person from whom I received this bullet:

Mr. O. P. Wright  
Personnel Director of Security  
Dallas County Hospital District

COMMISSION EXHIBIT 1024—Continued

By

Richard E. Johnson  
Special Agent  
7:30 p.m.  
Nov. 22, 1963

6/129  
6/131

same one Tomlinson identified as the original corridor stretcher (the one which the Commission concludes was unconnected with the assassination), and not the elevator stretcher, which it concludes was Governor Connally's. (Tomlinson describes the stretcher he found on the elevator as having "sheets on it and had a white covering on the pad," and that he " . . . don't believe there was anything else) on that one . . . ". On the other hand, he describes the original corridor stretcher as having "one or two" bloody sheets " . . . rolled up on the east end of it and there were a few surgical instruments on the opposite end and a sterile pack or so".)

The second document (also included in Commission Exhibit 1024) is a memorandum from Agent Johnsen to Secret Service Chief James J. Rowley, dated November 30, 1963. The pertinent portion of this memo repeats essentially the same information given in his earlier transmittal note, but explicitly reveals that hospital security director, O.P. Wright told Johnsen that he himself had seen the various medical articles on the same stretcher on which the bullet was "found".

3/799

" . . . The only information I was able to get from him (Wright) prior to the departure of Mrs. Kennedy and the casket was that the bullet had been found on a stretcher which President Kennedy may have been placed on. He also stated that he found rubber gloves, a stethoscope, and other doctors' paraphernalia on this same stretcher . . . "

Both the above documents, by furnishing corroboration for Tomlinson's belief that the bullet came from the stretcher that held bloody sheets and medical instruments, strengthen the possibility that by so doing, it came from a stretcher that had nothing to do with either victim. Why Mr. Specter did not refer to these during Tomlinson's testimony, or use them to test the accuracy of his recollection, can only be surmised.



UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to  
File No.

Dallas, Texas  
July 7, 1964

RE: JEE HARVEY CROWD

By letter dated May 20, 1964, the President's Commission requested the tracing of various items of physical evidence. Pursuant to this request, the following information is submitted:

Re: JEE HARVEY CROWD

Rifle Bullet, CI

On June 12, 1964, Derrell C. Tomlinson, Maintenance Employee, Parkland Hospital, Dallas, Texas, was shown Exhibit CI, a rifle slug, by Special Agent Sardwell D. Odum, Federal Bureau of Investigation. Tomlinson stated it appears to be the same one he found on a hospital cartage at Parkland Hospital on November 22, 1963, but he cannot positively identify the bullet as the one he found and showed to Mr. G. F. Wright. At the time he found the bullet, the hospital cartage was located in the Emergency Unit on the ground floor of the hospital.

On June 12, 1964, G. F. Wright, Personnel Officer, Parkland Hospital, Dallas, Texas, advised Special Agent Sardwell D. Odum that Exhibit CI, a rifle slug, shown to him at the time of the interview, looks like the slug found at Parkland Hospital on November 22, 1963, which he gave to Richard Johnson, Special Agent of the Secret Service. He stated he was not present at the time the bullet was found, but on the afternoon of November 22, 1963, as he entered the Emergency Unit on the ground floor of the hospital, Mr. Tomlinson, an employee, called to him and pointed out a bullet, which was on a hospital cartage at that location. He estimated the time as being within an hour of the time President Kennedy and Governor Connally were brought to the hospital. He advised he could not positively identify CI as being the same bullet which was found on November 22, 1963.

On June 24, 1964, Special Agent Richard E. Johnson, United States Secret Service, Washington, D. C., was shown Exhibit CI, a rifle bullet, by Special Agent Elmer Lee Todd, Federal Bureau of Investigation. Johnson advised he could not identify this bullet as the one he obtained from G. F. Wright, Parkland Hospital, Dallas, Texas, and gave to James Rowley, Chief, United States Secret Service, Washington, D. C., on November 22, 1963.

On June 24, 1964, James Rowley, Chief, United States Secret Service, Washington, D. C., was shown Exhibit CI, a rifle bullet, by Special Agent Elmer Lee Todd. Rowley advised he could not identify this bullet as the one he received from Special Agent Richard E. Johnson and gave to Special Agent Todd on November 22, 1963.

On June 24, 1964, Special Agent Elmer Lee Todd, Washington, D. C., identified CI, a rifle bullet, as being the same one he received from James Rowley, Chief, United States Secret Service, Washington, D. C., on November 22, 1963. This identification was made from initials marked thereon by Special Agent Todd at the Federal Bureau of Investigation Laboratory upon receipt.

24/412  
The third document (Commission Exhibit 2011) is an unsigned letter on FBI letterhead, dated July 7, 1964, Dallas, Texas. It's ostensible purpose is explained in its opening paragraph:

RE: Lee Harvey Oswald

By letter dated May 20, 1964, the President's Commission requested the tracing of various items of physical evidence.

Pursuant to this request, the following information is submitted . . .

(the letter then purports to trace various items; bullets, bullet fragments, shells, clothing, hair, etc. The section relating to "bullet C1" -- which is the FBI's designation for the missile the Commission later calls C.E. 399 -- is reproduced below;(underlines added):

On June 12, 1964, Darrell C. Tomlinson, Maintenance Employee, Parkland Hospital, Dallas, Texas was shown Exhibit C1, a rifle slug, by Special Agent Bardwell D. Odum, Federal Bureau of Investigation. Tomlinson stated it appears to be the same one he found on a hospital carriage at Parkland Hospital on November 22, 1963, but he cannot positively identify the bullet as the one he found and showed to Mr. O. P. Wright. At the time he found the bullet, the hospital carriage was located in the Emergency Unit on the ground floor of the hospital.

On June 12, 1964, O. P. Wright, Personnel Officer, Parkland Hospital, Dallas, Texas, advised Special Agent Bardwell D. Odum that Exhibit C1, a rifle slug, shown him at the time of the interview, looks like the slug found at Parkland Hospital on November 22, 1963, which he gave to Richard Johnsen, Special Agent of the Secret Service. He stated he was not present at the time

the bullet was found, but on the afternoon of November 22, 1963,  
as he entered the Emergency Unit on the ground floor of the  
hospital, Mr. Tomlinson, an employee called to him and pointed out  
a bullet, which was on a hospital carriage at that location. He  
estimated the time as being within an hour of the time President  
Kennedy and Governor Conally were brought to the hospital. He  
advised he could not positively identify Cl as being the same bullet  
which was found on November 22, 1963.

On June 24, 1964, Special Agent Richard E. Johnsen, United States  
Secret Service, Washington, D. C., was shown Exhibit Cl, a rifle  
bullet, by Special Agent Elmer Lee Todd, Federal Bureau of  
Investigation. Johnsen advised he could not identify this bullet  
as the one he obtained from O. P. Wright, Parkland Hospital, Dallas,  
Texas, and gave to James Rowley, Chief, United States Secret  
Service, Washington, D.C., on November 22, 1963.

On June 24, 1964, James Rowley, Chief, United States Secret Service,  
Washington, D. C., was shown Exhibit Cl, a rifle bullet, by  
Special Agent Elmer Lee Todd. Rowley advised he could not identify  
this bullet as the one he received from Special Agent Richard E.  
Johnsen and gave to Special Agent Todd on November 22, 1963.

On June 24, 1964, Special Agent Elmer Lee Todd, Washington, D. C.,  
identified Cl, a rifle bullet, as being the same one he received  
from James Rowley, Chief, United States Secret Service, Washing-  
ton, D. C., on November 22, 1963. This identification was made  
from initials marked thereon by Special Agent Todd at the Federal  
Bureau of Investigation Laboratory upon receipt.

It is often the case that Commission exhibits raise as many questions as they answer. These three documents are such exhibits.

6/53  
During Tomlinson's testimony, when Specter informed him that a Secret Service report said the bullet had been found on a stretcher which Tomlinson had removed from the elevator, Tomlinson replied that the agent ". . . might have drawn his own conclusion on that". Tomlinson says that he was interviewed by the Secret Service ". . . the first part of December (1963)". Where is this alleged report? Clearly, it could not be either of the two Johnsen documents; not only do they both bear November dates, but neither of them mentions an elevator stretcher, nor any personal interview between the Secret Service and Tomlinson. Furthermore, Specter does not indicate its date, does not name the secret service agent who made it, does not show it to Tomlinson, and nowhere does it appear in evidence.

The FBI letter has its own quota of strange aspects. Its reference to the Commission's request for tracing dated May 20, 1964, indicates that until six months after the assassination the Commission did not even request a trace of the mysterious 399; despite the obviously suspicious implications raised many weeks (and even months) earlier by the relevant testimony of any of the Drs. Humes, Finck, Olivier, Shaw, or Gregory; or FBI firearms expert Frazier.

Also, of the four individuals listed who supposedly handled "C1" (bullet 399) from the time of its discovery by Tomlinson to its receipt by the FBI in Washington, none was able to identify it. And, as with the Secret Service documents, there is a problem of dates; for Tomlinson states that he was interviewed by an FBI agent during ". . . the latter part of November (1963)", and that ". . . he asked me about the stretcher . . . the same thing we've gone over here". This clearly is not the same interview

referred to in the FBI letter as having taken place "On June 12, 1964". An FBI report of an interview with Tomlinson in November, 1963, would indicate a time when his recollection of his activities at Parkland Hospital would be fresher, by more than six months, than during the June 12th, 1964 interview. Yet, no such November report is presented in evidence. Nor is Agent Odum's report of the June 12th interview presented; reference to it being made only in the FBI letter to the Commission.

If these omitted documents supported the Commission's version of 399's origin, and contained no information further clouding its authenticity, why were they not presented?

Why did Mr. Specter not ask for a more specific description from Tomlinson of precisely where he "found" the bullet?

Why wasn't Tomlinson asked what he did with it after "finding" it? (Since Tomlinson's testimony was taken on March 20, 1964, Specter would have to have been again engaging in clairvoyance to know that the FBI letter, dated July 7, 1964, would "reveal" that after discovering the bullet, Tomlinson called O. P. Wright and "pointed out a bullet which was on a hospital carriage at that location").

Why was personnel Director, O. P. Wright not even called to testify, although it was from him that Secret Service Agent Johnsen says, in his two reports, that he received the bullet; and to him that the FBI letter says Tomlinson gave it?

By failing to call Mr. Wright, the Commission also avoided an opportunity to ask him about a startling lapse; that nowhere in the entire course of his four-page, single-spaced, typewritten report to Hospital Administrator, C. J. Price (dated Dec. 4, 1963, and whose subject is listed

2/1229

as "Activities from 12:30 P.M., November 22 through November 25, 1963"), does Wright mention anything about the bullet; not its discovery, nor his receipt of it, nor his transmittal of it to Agent Johnsen. Yet, three paragraphs of Wright's carefully detailed statement are taken up with his receipt, possession, and transmittal to the Secret Service of President Kennedy's wrist watch.

It is incredible that in the course of relating his activities, Mr. Wright could forget so singular an occurrence as his handling of an assassination bullet. In failing to have Wright testify in order to clarify this incomprehensible omission, the Commission displays once again that gross lack of curiosity so characteristic of its conduct from beginning to end. It is consistent with this pattern that neither Secret Service Agent Johnsen, nor FBI Agent Odum (who, according to the FBI letter questioned both Tomlinson and Wright) were called to testify.

That such an obviously inadequate effort was made by the Commission in tracing so critical a piece of evidence is inexcusable. In fact, the record justifies the conclusion that it carefully avoided any real inquiry into the background, discovery, and chain of possession of bullet 399.

\* \* \* \* \*

IX BULLET, BULLET, \_\_\_\_\_?

To the extent that it is possible to do so from a gleaning of testimony and exhibits (the Johnsen documents and the FBI letter); and bearing in mind the undissipated clouds which engulf bullet 399; reconstructed below is its chain of possession, from the time of its "discovery" at Parkland Hospital on November 22, 1963, until its reported use by FBI Agents Odum and Todd respectively, on June 12 and June 24, 1964, in their fruitless attempts to have it identified by any of the four people who had allegedly handled it prior to its FBI custody:

1. Darrell C. Tomlinson, senior engineer, Parkland Hospital:

Discovered bullet on a stretcher in a corridor of the hospital emergency area between 1:00 and 1:50 p.m., November 22, 1963.

Called O. P. Wright and "pointed out" bullet. (Tomlinson testifies, but is asked very little about his finding of the bullet; and nothing about its appearance or his handling and disposition of it. Unlike most other hospital personnel, no written report covering his activities appears in evidence; unable to identify 399 as the bullet he "found").

2. O. P. Wright, Personnel Officer, Parkland Hospital:

Received bullet from Tomlinson; or removed it from stretcher after it was "pointed out" by Tomlinson 1:00 - 1:50 p.m., November 22. Gave it to Richard E. Johnsen shortly thereafter. (Wright not called to testify. No direct statement from him in evidence referring to bullet. He failed to mention it in lengthy report, to hospital administrator, concerning his activities November 22 - November 25 (1963), although detailing his handling of President Kennedy's wrist watch. Unable to

identify 399 as bullet he handled.)

3. Richard E. Johnsen, Special Agent, U. S. Secret Service:

Received bullet from O. P. Wright at Parkland shortly before 2:00 p.m., November 22, 1963. Transmitted to James Rowley same day.

(Johnsen not called to testify. Unable to identify 399 as bullet he received from Wright.)

4. James J. Rowley, Chief, U. S. Secret Service:

Received bullet from Johnsen on November 22, 1963. Gave it to FBI Special Agent Todd same day.

(Rowley testifies July 7, 1964, but is not asked anything about the bullet. No written statement from him concerning his possession of it. On June 24, 1964, he was unable to identify 399 as the bullet received from Johnsen.)

5. Elmer Lee Todd, Special Agent, FBI:

Received bullet from Rowley in Washington, D. C., November 22, 1963. Upon receipt, Todd marked bullet with his initials at FBI Investigation Laboratory. Gave it to Robert A. Frazier same day.

(notes on Todd follow his second entry-- 11. --below)

6. Robert A. Frazier, Firearms Identification Expert, FBI:

Received bullet from Todd in FBI laboratory, Washington, D. C., November 22, 1963. Frazier put his initials on it.

(information regarding Frazier's relations to 399 given later)

7. John F. Gallagher, spectrographer, Special Agent, FBI:

Made spectrographic examination of bullet, (date not given,

24/412

24/412

5/449

24/412

3/428

but apparently prior to March 31, 1966)

(No written statement from Gallagher appears in evidence. He was not called to testify until September 15, 1964, less than two weeks prior to publication of the Warren Commission Report. His entire seven-page testimony is taken up with a discussion of "neutron activation analysis", as it pertains to a determination of whether or not an individual has fired a weapon.\* Counsel Norman Redlich failed to ask Gallagher a single question regarding his spectrographic examination of bullet 399.)

(more information relating to Gallagher's examination of 399 later)

8. Melvin A. Eisenberg, assistant counsel, Warren Commission:  
Received bullet from FBI in Washington, D.C., March 24, 1964.  
Transmitted it to Joseph D. Nicol same day.

9. Joseph D. Nicol, Superintendent, Bureau of Criminal Identification, State of Illinois:

Received bullet 399 from Eisenberg in latter's office, (together with other bullets and fragments), Washington, D. C., March 24, 1964. Made ballistics comparisons with other bullets and fragments. Date not given for return of 399 to FBI custody. (Nicol testifies April 1, 1964. Counsel Eisenberg failed to ask his opinion as to whether or not 399 could have caused Governor Connally's wounds.\*\* He states 399, test bullets, and

\* The Commission concluded that this technique failed to provide conclusive results as related to Oswald.

\*\*Nicol is also associate editor of "Journal of Criminal Law and Criminology."

fragments allegedly recovered from Presidential car, all originated from same weapon; but all samples were furnished to him by FBI through Eisenberg -- he was not given the weapon.\* Additional information concerning his examination of 399 later.)

10. Bardwell D. Odum, Special Agent, FBI:

On June 12, 1964, he showed bullet 399 to Tomlinson and Wright. They could not identify it as the bullet "found" by Tomlinson and handled by Wright.

(Odum not called to testify. No direct written statement from him appears in evidence covering his June 12 interviews with Tomlinson and Wright. His written report on unrelated matter, dated July 10, 1964, is presented in evidence).

11. Elmer Lee Todd, Special Agent, FBI:

On June 24, 1964, he showed bullet 399 to Johnsen and Rowley. They could not identify it as the bullet they had handled. On same date, Todd identified it, from his initials, as same one he received from Rowley in Washington, D. C., on November 22, 1963.

(Todd not called to testify. No direct written statement from

\* Nicol explains his failure to examine the rifle, or to fire test bullets, as follows: " . . . two very basic reasons.

One, the matter of time, and secondly, the fact that I did not have facilities in the area where I was working for the collection of such tests from a high-powered weapon. There is the other problem . . . it was apparent the weapon in . . . firing . . . was undergoing some changes . . . which would make these (test bullets) the best specimens rather than those I might fire now . . . "

Eisenberg adds: " . . . I had been informed by the FBI that 50 or more bullets had been fired . . . and that . . . this would seriously alter the firing characteristics of the barrel."

him appears in evidence concerning his June 24 interviews  
with Johnsen and Rowley; or his receipt of bullet from  
Rowley on November 22, 1963).

24/4/2

\* \* \* \* \*

X "THE BULLET WAS CLEAN . . . "

3/391  
3/428  
The testimony of FBI Special Agent Robert A. Frazier, as it relates to bullet 399, deserves our particular attention. For twenty-five years Frazier has been an FBI firearms expert, having made between 50,000 - 60,000 firearms and bullet comparisons during that time. As previously noted, he first received the bullet subsequently identified as Commission Exhibit 399 from Special Agent Todd in the FBI laboratory in Washington, November 22, 1963, and initialed it at that time.

During his testimony of March 31, 1964, he identifies 399 from his initials, and states that the bullet then was in the same condition as when he received it; except for his initials, those of "other examiners", " . . . a discoloration at the nose caused apparently by mounting this bullet in some material which stained it", and a " . . . small dent or scraped area (where) the spectrographic examiner\* removed a small quantity of metal for analysis".

Frazier then makes clear that there was no blood or other matter visible on the bullet when he received it on November 22:

Mr. Eisenberg: Did you prepare the bullet in any way for examination? That is, did you clean it or in any way alter it?

Mr. Frazier: No, sir; it was not necessary. The bullet was clean and it was not necessary to change it in any way.

428  
Here is a surprising revelation by Frazier. Here is a bullet which had supposedly gone through the neck of one man, and through the back, chest, wrist, and into the thigh of another, smashing bones along the way. One

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\* Presumably Gallagher, though not named at this time.

would certainly expect that such a missile would have accumulated some amount of blood and tissue (even ignoring, for the moment, its intact appearance).\* Yet, this bullet was clean when received by Frazier within hours of the assassination. No wonder Eisenberg's next question contains a note of incredulity:

Mr. Eisenberg: There was no blood or similar material on the bullet when you received it?

Mr. Frazier: Not any which would interfere with the examination, no, sir.

Now there may have been slight traces which could have been removed just in ordinary handling, but it wasn't necessary to actually clean blood or tissue off of the bullet.

Frazier's slight concession does little to solve the Commission's dilemma, for Eisenberg failed to inform him of the prodigious and bloody workload its hypothesis had imputed to 399. Therefore, we cannot know what Frazier's opinion might have been as to the amount of blood or tissue he would expect to find adhering to such a missile. However, it is an entirely reasonable assumption that a bullet having traveled the gory path ascribed to 399 by the Commission, would, several hours later, still retain some evidence of human residue, unless it had been deliberately cleaned.

The chain of possession prior to Frazier's receipt does not reveal a likely "link" that could account for any such possible cleaning. Tomlinson either had it only a very short time; or did not handle it at all, but merely pointed it out to Wright (the record being ambiguous on this question). Wright, as chief security officer at Parkland presumably would know enough of the importance of bullets as evidence to handle a possible assassination

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\* See footnote, page 76

3/429

bullet with great care, during his brief custody before turning it over to Agent Johnsen. That Johnsen would also be expected to exercise similar (or greater) caution in its transmittal to Secret Service Chief Rowley; and Rowley in passing it to FBI Special Agent Todd; and Todd in delivering it to Frazier at the FBI laboratory, is self-evident.

There is, therefore, no reason to believe that bullet 399 was cleaned of human residue prior to its receipt by Frazier, and there is no legitimate reason whatever why it should have been.

9/429  
3/435  
Nine pages later in his testimony, Frazier is asked by Eisenberg about Commission Exhibits 567 and 569, two bullet fragments reportedly found in the Presidential car, which, like 399, Frazier had identified as having been fired from the Mannlicher-Carcano rifle:

Mr. Eisenberg: Getting back to the two bullet fragments mentioned, Mr.

5/437  
Frazier, did you alter them in any way after they had been received in the laboratory, by way of cleaning or otherwise?

Mr. Frazier: No sir; there was a very slight residue of blood or some other material adhering, but it did not interfere with the examination. It was wiped off to clean the bullet for examination, but it actually would not have been necessary.

Mr. Eisenberg: Is that true on both fragments?

Mr. Frazier: Yes, sir.

A puzzlement. That Frazier found bullet 399 free of blood and tissue after its alleged bone-crushing, flesh-rending assignment is

unusual enough.\* But the paradox becomes sharper in light of his admission that two fragments, reported to have been involved in the wounding, did retain such residue — despite the fact that each was a fraction of the size of the conspicuously unmutilated 399, therefore possessing much smaller surfaces onto which blood and tissue could adhere.

That Eisenberg noted the discrepancy is made perfectly clear by his next "question" — if it can be called that.

Mr. Eisenberg: You also mentioned there was blood or some other substance on the bullet marked 399. Is this an off-hand determination, or was there a test to determine what the substance was?

Mr. Frazier: No, there was no test made of the materials.

What can this "question" possibly mean? Nine pages earlier in his testimony Frazier stated unequivocally that he observed no blood on bullet 399. Now, after being confronted with Frazier's embarrassing admission that the much smaller fragments did have blood on them, Eisenberg states that Frazier said the opposite of what he, in fact, did say; and without asking for Frazier's acknowledgment of this reversal, or even pausing to allow time for him to comment on it, he proceeds immediately to ask an ambiguous question (did it refer to 399, or to the fragments?).

What possible interpretation can be placed on this weird statement-question, other than it was deliberately intended to "correct" Frazier's

\* this is especially so when considering the fact that the bullet which wounded the Governor was tumbling as it smashed through his wrist, thereby presenting sharp and irregular surfaces to the resisting flesh, and thus making it even more likely that blood and tissue would be picked up.

Further, recalling Dr. Gregory's reply when pressed to relate bullet 399 to the Governor's wrist wound, his sharply qualified endorsement of such a possibility was restricted solely to a backward-entering, (and therefore cutting-edged) bullet; (" . . . the only way this missile could have produced this wound is to have entered the wrist backward."); and therefore, once again, precluding the possibility that 399's un-bloodied appearance could be explained by hypothesizing it had drilled cleanly through the forearm in a nose-first condition.

4/12/1

hazardous no-blood-on 399/blood-on-the fragments testimony; or at least, to soften its troublesome effect by confusing the record?

To make such an accusation is, of course, a serious charge. Unfortunately, the Commission's behavior leaves the objective researcher little choice but to make it. For the Commission repeatedly -- in scores and perhaps hundreds of important instances -- conducts its "investigation" in such a fashion as to allow for only two possible interpretations: Either it consistently and deliberately selects, bends, and rejects facts and testimony so as to fit a preconceived conclusion -- that the assassination was the work of one man, and one man only -- or else it is guilty of incompetence so shocking as to be virtually incredible. Since there is no reason to believe that the experienced and highly trained attorneys who comprised the Commission's staff were incompetent, the former alternative emerges as the more likely.

As to Frazier's failure to correct Eisenberg's erroneous quotation of himself, the record reveals no definite reason. Perhaps he thought it wiser not to make an issue of it; perhaps he was confused by it, and was still thinking of the previous question regarding blood on the fragments.

That the latter may have been the case is possibly indicated by his reply, "No, there was no test made on the materials"; for if Frazier was referring to the fragments -- which, it appears indisputable, were found in the President's car and did result from bullets which had struck the victim(s) -- it would not be disturbing that tests were not made of the adhering substances.

But, if, in total contradiction to his earlier statement, Frazier's reply did refer to his having wiped blood from 399 -- a bullet whose back-

ground even then was very much in doubt -- such deliberate alteration of a suspect piece of evidence would constitute a shocking breach of duty.

The impression one gets from Frazier's lengthy and highly professional testimony is that he would not be guilty of such a breach; and therefore it is likely that he indeed was thinking of the fragments when responding to Eisenberg's stupefying statement/question.

That Frazier's testimony did nothing to enhance the dubious reputation of 399 is finally illustrated by his answer to the following question:

Mr. Eisenberg: How material would you call that defacement (of 399)?

Mr. Frazier: It is hardly visible unless you look at the base of the bullet and notice it is not round.

. . . and by the failure of Eisenberg to ask "the next obvious question";\* i.e., whether or not Frazier believed a bullet could have fractured Governor Connally's rib and wrist, leaving numerous fragments, and emerge as intact and with such "hardly visible" defacement as bullet 399.

\* \* \* \* \*

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\* Penn Jones, Jr., editor of the Midlothian (Texas) Mirror, so characterizes the Commission's persistent failure to press obvious leads in testimony before it.

XI " . . . NO FURTHER TESTS WERE RUN . . . "

As noted in our reconstruction of the "chain", FBI spectrographic expert Gallagher did not testify until two weeks prior to the release of the Warren Report. No questions whatever were asked of him regarding bullet 399, and one would not know from his testimony that he ever examined it.

That Gallagher did indeed do so is revealed by Frazier during his testimony of May 13, 1964, with counsel Specter; although no dates for the examination are given or asked. Specter did not inquire of Frazier as to whether Gallagher may have detected any blood/tissue residue on 399 during his examination; nor was he asked whether the "neutron activation analysis" -- whose usefulness in crime-detection is described in fascinating and lengthy detail by Gallagher -- could have been employed to detect such traces on 399, and to determine their origin.

Yet another opportunity to learn something about the mysterious bullet's history was missed, by Mr. Eisenberg, in his questioning of Joseph D. Nicol, the Illinois firearms expert, on April 1, 1964. After explaining to Eisenberg his opinion that 399 and the two bullet fragments (C.E. 567 and 569) originated from the same weapon as did several test bullets furnished him, he was asked:

Mr. Eisenberg: Mr. Nicol . . . is there any further testimony you wish to give on the subject of the rifle bullets?

Mr. Nicol: The only other work I did was with respect to an examination of the nose of (399) to ascertain whether there was any evidence of ricochet or perhaps contact with fabric and so on.

However, although there were some fine striations on there, there

was nothing of such a nature that it would suggest a pattern, like a weave pattern or anything of that nature. So that except for the nick, which I understand has been explained as a site where spectrographic tests were conducted, no further tests were run . . .

Mr. Eisenberg: Yes.

But doesn't Nicol's statement at least suggest that a bullet which had pierced the clothing of two men might be expected to have impressed upon it something suggesting a weave pattern?

And shouldn't a bullet that had smashed bones show some "evidence of ricochet"? Eisenberg's laconic one-word response showed no interest in these questions, so clearly implicit in Nicol's intriguing revelations.

Another "next obvious question" unasked; another Commission pitfall avoided.

\* \* \* \* \*

## XII DOUBT UPON DOUBT

The strange and suspicious circumstances surrounding the handling of bullet 399 by the Commission raise still other questions which merit our attention. In individual cases, and in the cumulative weight of some of these circumstances, suspicion of 399's legitimacy by the FBI itself, as well as the Commission, can be inferred:

1. Why was 399 still undergoing tests by the FBI four months after the assassination and three months after the FBI had submitted its report to the Warren Commission naming Lee Harvey Oswald as the lone assassin?

1374  
1497  
(The bullet was first presented in evidence by Specter on March 16, 1964, during the testimony of Commander Humes. Specter says: "We have been asked by the FBI that the missile not be handled by anybody because it is undergoing further ballistic tests . . . "

Joseph Nicol did not receive it for testing until March 24, 1964.)

2. Was any attempt made during the FBI tests to analyze 399 for possible blood/tissue residue? If not, why not? If so, why are the reports not presented? Why were these questions not asked by the Commission?
  3. Why was not a single FBI expert (including Frazier) asked by the Commission to state his views as to the possibility of 399 having caused the multiple wounds imputed to it?
  4. Why did Specter fail to ask Frazier, during his May 13, 1964, testimony to establish the chain of possession of bullet 399; although requesting him to do so and receiving immediate
- 21

compliance in the cases of the other missiles involved  
(fragments)?

5/72

(These missiles, including 399, were being discussed on May 13. Yet, the aforementioned FBI letter of July 7, 1964, indicates that the Commission made no request for tracing of 399 until May 20, 1964\* -- six months after the assassination.)

24/412

5. What is the meaning of Commissioner Dulles' enigmatic question shortly prior to 399's introduction into evidence on March 16, 1964 -- four months after the assassination: "So this bullet is still missing?" . . . and of Specter's even more enigmatic reply -- "That is the subject of some theories I am about to get into. That is an elusive subject . . ."
6. Why is Dulles still dubious two weeks after Specter's "explanation" . . .

2/368

(Mr. Dulles, March 30, 1964: . . . Did you know anything about the spent bullet that was found on . . . the litter?

Dr. Perry: My first knowledge of that was one of the newspaper publications had said there was a bullet found there. I don't know whether it was or not. I didn't find it.)

3/389

. . . and three weeks after that?

(Mr. Dulles, April 21, 1964: Did you hear at that time or have any knowledge, of a bullet which had been found on a stretcher?

4/116

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\* Also indicating the FBI took seven weeks to make its reply.

Dr. Shaw: No; this was later knowledge.

Mr. Dulles: When did you first hear that?

Dr. Shaw: This information was first given to me by a man from the Secret Service who interviewed me in my office several weeks later. It is the first time I knew about any bullet being recovered.)

7. Why is Senator Russell also skeptical? That this is so is implicit in his question during testimony of Dr. Gregory.

(Senator Russell, April 21, 1964: When did you first see this bullet, Doctor . . . ?

Dr. Gregory: This morning, sir.)

Nor are the commissioners alone puzzled, for the doctors' responses betray their own doubts.

8. Why was no prompt attempt made to have these doctors who attended Governor Connally try to relate bullet 399 to his wounds?

(The testimony of Drs. Shaw and Gregory reveal that they were not shown the bullet that allegedly inflicted these wounds until five months after the assassination.

That no such attempt was made at any time prior to their testimony -- let alone, shortly after the event when the doctors' impressions would have been most vivid -- could well indicate official mistrust of bullet 399.)

9. Why did the Parkland doctors not hear of the discovery of a bullet ("stretcher" or any other) much sooner?

(Drs. Shaw and Perry said they never even heard of a bullet found at Parkland Hospital until some date considerably after November 22, 1963; in the case of Dr. Shaw, " . . . several weeks later". That word of the "finding" of an assassination bullet did not travel like wildfire throughout the hospital can be explained logically only by assuming that the individuals involved in its discovery and handling were ordered not to talk. Such an order would be most consistent with official suspicion of 399, and may further serve to explain Hospital Personnel Director O. P. Wright's otherwise incomprehensible failure to include any mention of it in his activity report, submitted to his superior just twelve days later.)

Thus far, our inquiry has not solved the mystery of Commission Exhibit 399. The walking-on-eggs performance of the Warren Commission and the FBI, far from legitimatizing it, have instead further beclouded its genealogy.

Expert testimony was twisted or ignored; "tests" were conducted (Dr. Olivier's) which tested nothing but the Commission's gullibility, or worse; while others which should have been made were not; important witnesses were not called, or were not asked relevant questions; pertinent reports were not presented, while conspicuous omissions in others went unchallenged; obvious implications went unexplored.

We have yet to learn the actual part played by bullet 399 in the unforgettable tragedy of November 22, 1963.

\* \* \* \* \*

XIII HYPOTHESES

The Commission tells us that no more than three shots, and no fewer than two, were fired at the Presidential car. Of these, it says only two struck the victims; therefore, the Commission concludes, if there was a third (which it deems "probable"), it missed entirely.

Since there is no legitimate way a missed shot could end up on a stretcher in Parkland Hospital (even if such a bullet could somehow retain the virginal appearance of 399), and since the bullet which shattered President Kennedy's head is known to have fragmented, the Commission was stuck with 399 as the sole cause of the remaining wounds of the President, and all those of Governor Connally.

However, as we have seen, the Commission has not only failed to prove 399 inflicted all -- or any -- of the wounds attributed to it, but also has done nothing whatever to investigate alternative possibilities as to its involvement.

We shall have to do the Commission's work; for while the proof of the Zapruder film has destroyed any factual basis for clinging to the Commission's lone-assassin - three-shot shibboleth, the question of 399's role still remains a vital one. Could it have been any one of any number of shots fired at the victims, from any direction, whether or not it struck a human target?

In this section we shall examine all seemingly plausible hypotheses. At first, we shall list, weigh, and eliminate those which must be precluded for reasons pertaining to the condition of 399, to the wounds it allegedly inflicted, or to the impossibility of its having been in different

R-110-III

R-87

parts of the country at the same time. These three factors will be the only ones considered initially, even where exclusion of a hypothesis would be justified on other grounds. This contrary evidence will be based on observations by experts, and their views as given to the Commission.

(Such statements in reference to 399 as " . . . bullet would have been distorted", are to be interpreted as meaning more noticeably distorted than 399 — which actually was slightly flattened towards the rear.)

Then, we will examine the remaining hypotheses, and in these cases, additional factors will be considered.

Since our intention is to avoid overlooking any (initially) plausible manner in which 399 could have been implicated, our list shall include many alternatives not entertained by the Commission.

A. HYPOTHESES INVOLVING RELATIONSHIP OF 399 TO ALLEGED JFK-JC DOUBLE HIT

(evidence presented below regarding relationship to Governor Connally's wounds also applicable here)

B. HYPOTHESES INVOLVING RELATIONSHIP OF 399 TO GOVERNOR CONNALLY'S WOUNDS (JC HYPOTHESES)

1. entered back; came to rest in body.

Evidence Against:

- a. no evidence of bullet being removed from Governor's chest at Parkland Hospital.
- b. wound at front of chest was exit wound. Evidence indicates only one entrance wound in back; therefore same bullet must have exited from front causing chest wound.

Hypothesis Eliminated

2. entered back, shattered rib, exited chest, pierced and shattered wrist, entered left thigh.

Evidence Against:

- a. numerous fragments left in Governor's body (chest, wrist, thigh) rule out 399 as their source.
- b. bullet shattering rib and wrist would most probably have been distorted.

Hypothesis Eliminated

3. first pierced Governor's wrist, shattering bones, then entered thigh.

Evidence Against:

- a. coat fibres carried into wrist wound by missile indicated it had previously hit other obstruction.
- b. numerous fragments left in wrist and thigh rule out 399 as their source.
- c. bullet shattering wrist would most probably have been distorted.

Hypothesis Eliminated

4. first pierced wrist, shattering bones, struck no other part of Governor's body.

Evidence Against:

(same as in 3, above, except for deletion of "and thigh" in b)

Hypothesis Eliminated

5. first struck Governor's thigh.

- a. (at normal velocity);

Evidence Against:

- (1) minor nature of thigh wound precludes unspent bullet as cause.
  - (a) failing to encounter bone (or failing to encounter it squarely) bullet would almost certainly have pierced leg, causing exit wound. No evidence of such wound.

- (b) encountering bone (squarely) would have shattered bone (no indication of such fracture); bullet would most probably become distorted.

Hypothesis Eliminated

- b. (at exceptionally low velocity, caused by "weak charge" or otherwise defective cartridge);

Evidence Against:

- (1) bullet-fragment penetrated into femur, indicating bullet from which it came was unspent.

Hypothesis Eliminated

C. HYPOTHESES INVOLVING RELATIONSHIP OF 399 TO MISSED SHOT(S)

1. missed car and occupants, struck pavement or hard surface.

Evidence Against:

- a. bullet would have been distorted.

Hypothesis Eliminated

We have now eliminated seven hypotheses and sub-hypotheses for reasons immediately decisive. Of the remaining thirty-seven which follow, some --where warranted-- will likewise be immediately eliminated; but others will be retained for further consideration.

D. REMAINING HYPOTHESES INVOLVING RELATIONSHIP OF 399 TO GOVERNOR'S WOUNDS

6. entered back, shattered rib, exited front of chest, struck no other part of body. (downward angle of bullet exiting from chest would insure its striking interior of car, resulting in one of the following):

- a. hit solid obstruction in interior of car at high speed.

Evidence Against:

- (1) it would have been distorted.

Hypothesis Eliminated

- b. penetrated upholstery, coming to rest in soft material, thus preventing further distortion.

Evidence Against:

- (1) it would have to have been recovered and placed on stretcher.
- (2) no reason for such a bullet to be placed on stretcher.

Hypothesis Retained

- c. spent upon exiting Governor's chest and jacket, came to rest in car without damaging it, or distorting bullet.

Evidence Against:

- (same as in b above)

Hypothesis Retained

- 7. entered Governor's back, exited front of chest, then struck his thigh. Bullet subsequently:

- a. was removed surgically at Parkland.

Evidence Against:

- (1) such surgical removal contrary to all evidence.
- (2) if so removed, no reason to place it on stretcher.

Hypothesis Retained

- b. fell out of thigh wound; either into his trousers, and from there onto his stretcher; or later, directly from the wound onto the stretcher.

Evidence Against:

- (1) if bullet fell from thigh wound, it must have been nearly spent prior to striking thigh -- otherwise, it would have penetrated to depth that would have precluded dislodgment. But in fact, bullet-fragment penetrated into his femur; which indicates it came from missile still retaining considerable velocity.

Hypothesis Retained

E. HYPOTHESES INVOLVING RELATIONSHIP OF 399 TO JFK'S WOUNDS1. struck President Kennedy's head, exited, then struck car.

- a. encountering hard object in interior of car at high speed.

Evidence Against:

- (1) bullet piercing skull would most probably have been distorted.
- (2) bullet then striking hard object in car (of sufficient substance to stop it) would be further distorted.

Hypothesis Eliminated

- b. penetrated upholstery, coming to rest in soft material, thus preventing further distortion.

Evidence Against:

- (1) bullet piercing skull would most probably have been distorted.
- (2) it would have to have been recovered and placed on stretcher.
- (3) no reason for such bullet to be placed on stretcher.

Hypothesis Retained

- c. spent upon exiting head, came to rest in car without further distortion to bullet or damage to car.

Evidence Against:

- (1) bullet piercing skull most probably would have been distorted.\*
- (2) it would have to have been recovered and placed on stretcher.
- (3) no reason for such bullet to be placed on stretcher.

Hypothesis Retained2. struck President Kennedy's head; exited, escaped car without striking it.

- a. still unspent after escaping car, bullet encountered solid obstruction.

Evidence Against:

- (1) bullet piercing skull most probably would have been distorted.
- (2) striking other hard object would have resulted in further distortion.

Hypothesis Eliminated

- b. still unspent after escaping car, bullet struck soft surface  
(grass, soft earth), thus penetrating deeply.

Evidence Against:

- (1) bullet piercing skull most probably would have been distorted.
- (2) recovery in time for placement on stretcher unlikely.
- (3) no reason to place such bullet on stretcher.

Hypothesis Retained

- c. still unspent after escaping car, bullet traveled unobstructed  
until spent.

Evidence Against:

- (1) bullet piercing skull most probably would have been distorted.
- (2) recovery in time for placement on stretcher unlikely.
- (3) no reason to place such bullet on stretcher.

Hypothesis Retained

- d. spent upon exiting head and escaping car, bullet fell to surface.

Evidence Against:

- (1) bullet piercing skull most probably would have been distorted.
- (2) it would have to have been recovered and placed on stretcher.
- (3) no reason to place such bullet on stretcher.

Hypothesis Retained

3. entered JFK's neck (either front or rear), ranged upward into head,  
piercing skull; exiting, and escaping car without striking it.

- a. (alternative and "Evidence Against" same as in 2a, above)

Hypothesis Eliminated

- b. ( " " " " same as in 2b, above)

Hypothesis Retained

- c. ( " " " " same as in 2c, above)

Hypothesis Retained

- d. ( " " " " same as in 2d, above)

Hypothesis Retained

4. entered neck (either from front or rear), ranged upward through head, exited skull through pre-inflicted wound -- thus avoiding further distortion -- and escaping car.

a. (alternative and "Evidence Against" -- with deletion of (1), same as in 2a, above)

Hypothesis Eliminated

b. ( " " " " " " 2b, " )

Hypothesis Retained

c. ( " " " " " " 2c, " )

Hypothesis Retained

d. ( " " " " " " 2d, " )

Hypothesis Retained

5. entered JFK's neck (either from front or rear), ranged upward into head; did not exit, removed surgically.

Evidence Against:

a. such surgical removal at Parkland contrary to all evidence; no reason to place such bullet on stretcher.

Hypothesis Retained

b. any such removal at Bethesda would have precluded same bullet being found at Parkland hours earlier.

Hypothesis Eliminated

6. entered JFK's neck (from front or rear), ranged downward in body and did not exit; removed surgically.

Evidence Against:

a. such removal at Parkland contrary to all evidence; no reason to place such bullet on stretcher.

Hypothesis Retained

b. any such removal at Bethesda would have precluded same bullet being found at Parkland hours earlier.

Hypothesis Eliminated

7. entered JFK's throat, exited back.

a. if unspent, bullet would have penetrated interior of car.

Evidence Against:

- (1) even if penetration of soft material prevented further distortion, bullet would have to have been recovered from car and placed on stretcher.
- (2) no reason to place such bullet on stretcher.
- (3) size and description of back wound suggests it was entry.

Hypothesis Retained

- b. if spent after exiting body and piercing clothing, bullet would have come to rest in car.

Evidence Against:

- (1) no reason to place such bullet on stretcher.
- (2) size and description of back wound suggests it was entry.

Hypothesis Retained

8. entered JFK's back, exited throat, missed other occupants, struck interior of car.

- a. (alternative and "Evidence Against" same as in 7a, above.)

Hypothesis Retained

- b. ( " " " " same as in 7b, above.)

Hypothesis Retained

9. entered JFK's back, exited throat, escaped car without striking it.

- a. (alternative and "Evidence Against" -- with deletion of (1) -- same as in JFK 2a) Hypothesis Eliminated
- b. (alternative and "Evidence Against" -- with deletion of (1) -- same as in JFK 2b) Hypothesis Retained
- c. (alternative and "Evidence Against" -- with deletion of (1) -- same as in JFK 2c) Hypothesis Retained
- d. (alternative and "Evidence Against" -- with deletion of (1) -- same as in JFK 2d) Hypothesis Retained

10. entered JFK's back, came to rest in body; subsequently fell out of

back through same wound onto stretcher (possibly at time chest  
massage applied at Parkland).

Evidence Against:

- a. for bullet to have any conceivable chance to thus fall from  
body, its penetration into back would have to be extremely  
shallow.
- (1) such shallow penetration could only result--
  - (a) from bullet having expended most of its energy by striking  
other object prior to entering back (in such case, distortion  
would be most likely).
  - (b) from "weak charge", or otherwise defective cartridge.
- (2) even in case of shallow penetration, expert opinions indicate  
such dislodgment from body extremely unlikely.\*

Hypothesis Retained

F. HYPOTHESES INVOLVING RELATIONSHIP OF 399 TO MISSED SHOT(S)

- 2. missed occupants, struck car,
  - a. encountered hard obstruction

Evidence Against:

- (1) it would have been distorted.

Hypothesis Eliminated

- b. penetrated upholstery, missing hard obstruction, thus pre-  
venting distortion.

Evidence Against:

- (1) bullet would then have to have been recovered from car and  
placed on stretcher.
- (2) no reason to place such bullet on stretcher.

Hypothesis Retained

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\*See footnote page 74

3. missed car and occupants, struck grassy area (or soft earth). (grass in Dealy Plaza well-tended, watered regularly; it had been raining earlier).

- a. if unspent, bullet encountering such surface would penetrate deeply (if it struck sub-surface rock it would have been distorted).

Evidence Against:

- (1) recovery in time to place on stretcher unlikely.  
(2) no reason to place such bullet on stretcher.

Hypothesis Retained

- b. if spent, due to "weak charge", or having been fired from great distance, bullet would still probably penetrate such surface.

Evidence Against:

- (1) bullet would have to be recovered and placed on stretcher.  
(2) no reason to place such bullet on stretcher.

Hypothesis Retained

\* \* \* \* \*

XIV A PROCESS OF ELIMINATION

On the basis of conclusive evidence, we have eliminated nine more of our remaining hypotheses and sub-hypotheses, leaving twenty-eight still open.

Of the remaining number, the largest group (nine) require that 399 come to rest somewhere in the President's car (as a result of the shooting); be recovered therefrom, and placed on the stretcher on which it was found at Parkland Hospital. Some brief testimony by FBI firearms expert Frazier is in order here, for he examined the car within hours after the assassination:

Mr. Specter: Mr. Frazier . . . Do you have any knowledge through any source whatsoever of any bullets or fragments found anywhere in the vicinity of the assassination, other than those (fragments) which you have already testified to, which were in the car, or the whole bullet from the Connally stretcher . . . ?

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Mr. Frazier: No sir; I have never heard of any nor have any been submitted to me.

The next questions answered by Frazier emphasize still further the unlikelihood of 399 having been found in the car (or in the vicinity of the assassination).

Mr. Specter: During the regular processing of the FBI examination in this case, would all such bullets or bullet fragments be brought to you for examination in accordance with your assignment to this matter generally?

Mr. Frazier: Yes, they would.

. . .

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Mr. Specter: Was your examination (for bullet penetration of the automobile)  
a thorough examination of all aspects of the interior of the car?

Mr. Frazier: Yes, sir . . . we examined the rugs carefully for holes . . .  
we examined all the upholstery covering, on the back of the front  
seat, on the doors . . . the jump seats, the actual rear seat, the  
back of the rear seat, and . . . the front seat, and we found no  
bullet holes.

Hypotheses JC-6c and JFK-1c are two of this first group (of nine).  
To believe that either offers a reasonable explanation for 399, one must  
believe that --Frazier notwithstanding-- 399 was found in the car; and that  
it was then placed on a stretcher at Parkland. In the case of JFK-1c, we must  
further accept that 399 somehow avoided distortion while piercing President  
Kennedy's head.

Two more of this group are JFK-7b and JFK-8b. To believe that  
either of these can explain 399, one must believe that it had been fired by a  
"weak charge", or otherwise defective cartridge; that Frazier was wrong in  
saying only fragments were found in the car; and that 399 was recovered from  
the car and placed on a stretcher.

The five remaining hypotheses in which 399 must be recovered from  
the car are JC-6b, JFK-1b, JFK-7a, JFK-8a, and MISS-2b. These have the  
impediment of requiring 399 to penetrate the upholstery of the car, making  
prompt recovery for placement on the stretcher that much more difficult.

As we have seen, Frazier said there was no evidence of such  
penetration; and Dr. Olivier states that if such a bullet struck the interior  
of the car after piercing President Kennedy, ". . . you would have seen a  
good deal of evidence".

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Therefore, to retain any of these five as possibilities, one must accept that Frazier was wrong in believing that only fragments were found in the car; that he was wrong again in saying there was no evidence of penetration in the car; and that 399 was recovered from the car's interior and placed on the stretcher at Parkland. In the case of JFK-1b, we must also accept that 399 avoided distortion although piercing the President's skull.

An additional hurdle common to this group, but one which must be surmounted in order to retain any of its nine alternatives, is the fact that the Secret Service was in complete possession of the car from the time of its arrival at Parkland until it was flown from Dallas three hours later at 3:35 p.m. It follows, then, that if anyone recovered 399 from the car at Parkland and placed it on a stretcher (or gave it to someone who did), it almost certainly could have been no one but a member of that agency.

(At this point, it would be well to recall that it is most unlikely that either of the two stretchers handled by Tomlinson could have been used by President Kennedy; the Commission not only agreeing on this point, but is unequivocal in excluding the possibility entirely. We have also seen that there is at least a reasonable doubt that either stretcher was used by Governor Connally -- despite the Commission's conclusion that the one removed from the elevator by Tomlinson was indeed the Governor's.

This leads us to the near certainty that no more than one of the two stretchers on which Tomlinson could have "found" the bullet was connected with either victim; and that it is entirely possible that neither of them was so involved.

These conclusions, unaided by any other considerations, but fully supported by the evidence, inevitably raise the possibility that 399 was planted. However, since it is our purpose to find, if possible, a legitimate

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and natural explanation for the pristine appearance of bullet 399, we shall make two important concessions toward that end by assuming that either of the two stretchers in Tomlinson's vicinity when he "found" the bullet could have been President Kennedy's or Governor Connally's.)

Another group of the remaining hypotheses, five in number, are JFK-2b, JFK-3b, JFK-4b, JFK-9b, and MISS-3a. Four of these involve 399's escaping the car after wounding the President; and the fifth, a miss. All five make it necessary that bullet 399 be dug out of the earth at varying and indeterminate distances from the assassination site, and placed on a stretcher at Parkland. To retain any of these five as possibilities, one must be willing to believe that someone either observed the impact of an unspent bullet on the grass or soft earth, or located the spot shortly afterward; that although this occurred at an indeterminate distance from the assassination site, and despite the considerable depth to which such a bullet would penetrate such a surface,\* it was, nevertheless, promptly retrieved; and that someone then placed it on a stretcher at Parkland.

Four other alternatives, JFK-2c, JFK-3c, JFK-4c, and JFK-9c, also are cases in which 399 exited the car without striking it, after inflicting wounds on the President. Here, however, instead of penetrating the soil, 399 would have traveled unobstructed until spent.

To retain any of these four, one must accept that promptly after the shooting, the spent 399 was somehow located at what probably would have been a great distance from the assassination site (Frazier says such a bullet after piercing President Kennedy's neck would travel approximately

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\* As to depth of penetration in soft earth, Dr. Olivier's testimony gives some indication. He reveals that bullets of this type fired into tissue-simulation materials from the Mannlicher-Carcano rifle, in some cases pierced more than thirty inches of the material, and still retained sufficient energy to bury themselves in a mound of earth.

a mile if unobstructed after leaving the car -- even if it had also pierced the windshield); and that it was subsequently placed on a stretcher at Parkland. In the cases of JFK-2c and JFK-3c, we must, again, accept that 399 escaped distortion although piercing the President's skull. 5/71

Four more hypotheses involving 399's escape from the car (in these cases, as a spent bullet), after wounding the President, are JFK-2d, JFK-3d, JFK-4d, and JFK-9d; the former two, once again, only after piercing his head.

Therefore, retention of any of these four is dependent upon believing that 399 was located and recovered from the Dealy Plaza area, and placed on the stretcher; and additionally, in the two former instances, that 399 was not distorted although fracturing the President's skull.

Hypothesis MISS-3b, also, calls for the discovery of 399 in the Dealy Plaza area shortly after the shooting, and for its placement on the stretcher. Its failure to penetrate the soft surface deeply requires us to further believe that it resulted either from a very weak charge, or that it was spent as a result of having been fired from a very great distance.

Three hypotheses, JC-7a, JFK-5a, and JFK-6a, involve the surgical removal of 399 at Parkland Hospital, and its placing on a stretcher. For this to have occurred would mean that the doctors attending the victims not only failed to include such critical information in their written reports made shortly after the event, but that they falsified those reports, and committed perjury before the Commission.

Further, that this deliberate concealment of such surgical removal began at Parkland Hospital immediately after attending the victims; for at no time -- either at the November 22 hospital press conferences explaining the victims' wounds and treatment, or at any other time -- was any mention

made of a whole bullet (or "nearly whole" as the Commission chooses to describe 399) having been surgically removed from either President Kennedy or Governor Connally. And, of course, after such surgical removal, the bullet would still have to have been placed on one of the stretchers.

Before turning our attention to the two remaining hypotheses, we should note that of the "retained" hypotheses reconsidered thus far (after the elimination of the first seven), whether their individual impediments impress one as decisive or not, each of them requires that some unknown person or persons retrieved bullet 399; either from the Presidential car, or from the general vicinity of the assassination, or from an unknown location at an indeterminate distance from the site of the shooting; or from the bodies of the victims themselves; and then placed it, or arranged to have it placed, on one of the stretchers.

The point must be emphasized that not only would this be an inexcusable and inexplicable mishandling of vital evidence even if somehow committed with no sinister purpose, but that there is no reason whatsoever why this should have been done with a legitimate assassination bullet even for a sinister purpose. The "planting" of a bullet can only be with the intention of having it "found" so as to ensure positive identification with a weapon the "planter" wishes to implicate (whether such a weapon is actually involved in the crime or not). Such a person would be delighted to discover that an assassination bullet had been recovered in the near pristine condition of 399, thus assuring the desired ballistic identification. What possible motive could he then have for jeopardizing his good fortune and the legitimacy of such crucial evidence (not to speak of his own risk of criminal involvement) by "planting" it? The answer, of course, is that no such motive exists.

\* \* \* \* \*

There are now but two hypotheses remaining for our reconsideration. They are unique in that they are the only ones that do not require 399's having been unnaturally transported from the place where it came to rest after the shooting to a hospital stretcher at Parkland. We shall take them up separately.

The first, JC-7b, states that 399 entered Governor Connally's back, exited from his chest after shattering his rib; then struck his thigh causing the small wound the doctors found there; and then became dislodged, either falling into his trousers and eventually from there onto his stretcher, or later, directly from the wound onto the stretcher.

The Commission of course believes this bullet did become so dislodged; but their three-shot limit requires also that it had already pierced and shattered the Governor's wrist during its trip from his chest to his thigh, and that it had previously gone through President Kennedy's neck before striking the Governor.

It is doubtful that anyone reading this far can still believe bullet 399 could have done what the Commission says it did. The Commission's single-assassin case is dead; laid low by the fatal blows inflicted by Abraham Zapruder's film, and neither Hypothesis JC-7b nor anything else can bring it to life. But cannot JC-7b at least provide a reasonable and legitimate explanation for 399; which, after all, is the object of our search?

An objective examination of the facts dictates an almost certain "no". Even after conceding that bullet 399 could retain its undistorted appearance after fragmenting the Governor's rib, there are other formidable

barriers in the path of JC-7b's acceptance.\*

A bullet does not fall out of its entry wound unless its penetration is extremely shallow; almost certainly, not unless its penetration was so slight as to have come to rest with part of it still protruding from the wound.\*\* But a penetration anywhere near this shallow by 399 would indicate that it was almost completely spent, retaining only a fraction of its velocity when it struck the leg. The facts are, however, that there is a bullet fragment in Governor Connally's femur, which could have entered in no other way except through the single wound observed on his thigh, the same wound the Commission says was caused by 399. How could a tiny fragment have the necessary momentum to penetrate the tissues of the thigh clear to the bone, and then penetrate deeply into the bone itself (the heaviest of the human body), if the bullet from which it came had impacted the thigh with so little force as to have become dislodged and fallen back out?\*\*\*

To believe, therefore, that JC-7b may solve the mystery of 399, one must believe either of the following:

1. That 399 struck the Governor's thigh with so little force that it fell from the wound it created; and that despite the feebleness of its impact, a fragment nevertheless instantly dislodged from it and penetrated into the femur.
2. That the fragment in the Governor's femur came from a dif-

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\* this hypothesis, of course, involves the further concession that the metal fragments left by a bullet in the Governor's chest and thigh could have come from 399, despite strong contrary testimony by the Commission's own expert witnesses.

\*\* see footnote, page 74

\*\*\* compare with Dr. Olivier's tests in which this type of ammunition completely pierced more than thirty inches of simulation materials.

ferent bullet, and that -- since it is undisputed there  
was only a single wound on the Governor's leg -- the then  
impotent 399 must have struck his thigh at the exact same  
place where the fragment had entered (or vice versa),  
thereby causing two separate entrance wounds to appear as one.

\* \* \* \* \*

We now have but one hypothesis, JFK-10, remaining to be reconsidered.

It states that 399 first struck the President's back (or "neck", as the Commission prefers); came to rest in his body, and subsequently fell out through the same wound onto a stretcher -- presumably while chest massage was being applied at Parkland. (This indeed, is the hypothesis clearly implied-- though not quite explicitly stated --in the recently declassified and by now famous FBI report submitted to the Commission on December 9, 1963.\* The "FBI Supplemental Report" dated January 13, 1964,\* gives the depth of penetration into the President's back as " . . . a distance of less than a finger length".)

As with our preceding hypothesis, JFK-10 offers --at first glance-- a seemingly plausible legitimate explanation for the condition and discovery of bullet 399. However, a closer examination leads to a different conclusion.

To begin with, we again have the problem of "fall-out". As with the case of the Governor's slight thigh wound, for such dislodgement from the President's body to have any reasonable possibility of occurring, the

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\* Epstein, "Inquest: The Warren Commission and the Establishment of Truth", Viking. (The FBI through anonymous spokesmen has made a series of "statements" reported in the press from the 29th of May, 1966, to the present; including refusals to comment; suggestions that the FBI reports were only preliminary and hasty; and suggestions that the FBI was only repeating what the doctors had said.)

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bullet's penetration would have to be extremely shallow; by independent expert opinion, much less than even the two-to-three inches constituting a finger's length.\* Such shallow penetration could conceivably be accounted for in three ways:

1. the bullet was spent as a result of having been fired from a very great distance (as Frazier indicated; with ammunition of this type, more than a mile; obviously a circumstance less than ideal for an assassination attempt.)
2. the bullet was spent as a result of having dissipated most of its energy by encountering some other obstruction prior to striking the President's back. (Frazier's testimony indicates there was no car damage attributable to this bullet, and specifically, no holes in the upholstery. It is difficult, then to conceive of an obstruction encountered by 399 before reaching the car, that could slow it down enough to allow for

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\* The author obtained opinions from six experts; coroners, coroners' pathologists, and criminalists in three major cities. Ranging in experience from six to forty years, representing a collective total of almost one hundred years, these men had made an aggregate of approximately 15,000 separate bullet wound examinations. They were unanimous in stating the following:

1. they had never seen a case involving "fall-out" through the entrance wound by a bullet that had completely penetrated the skin, let alone two or three inches of tissue.
2. they had never heard, through their colleagues or professional journals, of such an occurrence.
3. that the only cases of "fall-out" they could conceive of --and had occasionally dealt with-- were those in which the bullet had come to rest partially protruding from the skin; either as a result of failing to completely enter the body; or, after almost piercing it entirely, failing to completely exit.

The reason given by all six experts as precluding "fallout" was that the missile, upon striking the body, forces its way through skin and tissues, which immediately contract behind it; thereby leaving a free passage smaller than the diameter of the bullet. In reply to the specific question as to whether such "fall-out" was a reasonable possibility if chest massage had been applied in an effort at revival, the unanimous answer was no.

penetration so shallow as to permit "fall-out". Even if such were the case, gross distortion of the bullet would have almost certainly resulted.)

3. The bullet was grossly underpowered as the result of a "weak charge", or otherwise defective cartridge, therefore possessing only a fraction of the velocity normal for this type of ammunition. (expert opinions received by the author indicate this is an extremely rare occurrence in ammunition of reasonably current manufacture; more frequent in very old or "reloaded" ammunition).

It follows from the above that if our final hypothesis is to be retained as an explanation of 399, we can do so logically only by accepting the following:

1. That 399 made an extremely shallow penetration of JFK's back; and did so either as a result of:
  - a. having been fired from a very great distance.
  - b. having first spent most of its energy,
    - (1) by encountering a previous obstruction prior to reaching the car;
    - (2) by first striking some portion of the car; and in either case, managed to avoid distortion.
  - c. having been fired by a cartridge so defective as to impart to it a vastly sub-normal velocity.
2. That having made such shallow penetration, 399 later fell from his back, through its own entrance wound, onto his stretcher.

In addition, for those still believing JFK-10 a reasonable

possibility, it should be recalled that yet another improbability must be added to the series on which this hypothesis already depends; that our earlier concession that President Kennedy's stretcher could have been the one on which Tomlinson found the bullet is itself contingent upon two factors:

1. that contrary to all indications, someone replaced sheets on President Kennedy's stretcher after they had been once removed, and then moved the stretcher to the elevator or corridor area where Tomlinson found it.
2. that Tomlinson arrived at the elevator close to an hour later than he said he did.

Nor is even this quite all, for JFK-10 shares with all other hypotheses one final handicap; there is no evidence of any blood or tissue ever having been on 399. Frazier --despite Eisenberg's obfuscation-- said he saw none; there is no indication that any of those handling it previously saw any; and, if any laboratory analysis was made which verified or refuted the presence of such residue, neither the Warren Report nor any of the twenty-six volumes of testimony and exhibits reveal that fact.\*

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\* Opinions received from experts referred to in footnote on page 74 reveal that such complete lack of adhering blood or tissue would be unusual for a bullet that had pierced a body.